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TITLE 3—THE PRESIDENT
EXECUTIVE ORDER 10151

**EXEMPTION OF WILLIAM D. HASSETT FROM
COMPULSORY RETIREMENT FOR AGE**

WHEREAS, William D. Hassett, Secretary to the President, will, during the month of September, 1950, reach the retirement age, applicable to him, prescribed for automatic separation from the service by the Civil Service Retirement Act of May 29, 1930, as amended; and

WHEREAS, in my judgment, the public interest requires that such person be exempted from compulsory retirement for age as provided below:

NOW, THEREFORE, by virtue of and pursuant to the authority vested in me by section 204 of the act of June 30, 1932, 47 Stat. 404 (5 U. S. C. 715a), I hereby exempt the said William D. Hassett from compulsory retirement for age for an indefinite period of time.

HARRY S. TRUMAN

THE WHITE HOUSE,
August 11, 1950.

[P. R. Doc. 50-7169; Filed, Aug. 14, 1950;
11:58 a. m.]

TITLE 7—AGRICULTURE

Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders), Department of Agriculture

**PART 910—FRESH PEAS AND CAULIFLOWER
GROWN IN THE COUNTIES OF ALAMOSA,
RIO GRANDE, CONEJOS, COSTILLA AND
SAGUACHE IN COLORADO**

**DETERMINATION RELATIVE TO EXPENSES AND
FIXING OF RATE OF ASSESSMENT FOR 1951
FISCAL YEAR**

On July 22, 1950, notice of proposed rule making was published in the FEDERAL REGISTER (15 F. R. 4719) regarding the expenses and the fixing of the rate of assessment for the 1951 fiscal year under Marketing Agreement No. 67, as amended, and Order No. 10 as amended (7 CFR Part 910), regulating the handling of fresh peas and cauliflower grown in the Counties of Alamosa, Rio

Grande, Conejos, Costilla, and Saguache in the State of Colorado. This regulatory program is effective pursuant to the Agricultural Marketing Agreement Act of 1937, as amended. After consideration of all relevant matters presented, including the proposals set forth in the aforesaid notice which were submitted by the Administrative Committee (established pursuant to the amended marketing agreement and order), it is hereby found and determined that:

§ 910.204 *Expenses and rate of assessment for the 1951 fiscal year.* (a) The expenses necessary to be incurred by the Administrative Committee, established pursuant to the provisions of the aforesaid amended marketing agreement and order, for the maintenance and functioning of such committee during the fiscal year beginning June 1, 1950, and ending May 31, 1951, both dates inclusive, will amount to \$2,355.00.

(b) The rate of assessment to be paid, in accordance with the aforesaid amended marketing agreement and order by each handler who first handles fresh peas or cauliflower shall be: (1) \$1.50 per straight car of peas or cauliflower or per mixed car of peas and cauliflower, or the equivalent thereof, and (2) when less than a carload lot is shipped, one-half cent (\$0.005) per bushel of peas or per crate of cauliflower or the respective equivalent quantities thereof, but in no event shall the assessment be in excess of \$1.50 on a shipment of peas or cauliflower less than a carload lot, or mixed shipment thereof less than a carload lot; and the aforesaid rate of assessment is hereby fixed as each handler's pro rata share of the aforesaid expenses.

(c) It is hereby further found that it is impracticable and contrary to the public interest to postpone the effective date of this section until 30 days after publication in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) in that: (1) The aforesaid rate of assessment is applicable, pursuant to the amended marketing agreement and order, to all fresh peas and cauliflower handled during the fiscal year beginning June 1, 1950; (2) shipments of both peas and cauliflower

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flower have already commenced and are subject to regulation (15 F. R. 4335 and 15 F. R. 4578); (3) in order for the regulatory assessments to be collected, it is essential that the specification of the assessment rate be issued immediately in order to enable the Administrative Committee to perform its duties and functions under the aforesaid amended marketing agreement and order; and (4) handlers will not be required to make any special preparation to comply with the provisions of this section.

As used in this section, the terms "handler," "shipped," "fiscal year," "shipment," "peas," and "cauliflower" shall have the same meaning as is given to the respective term when used in said amended marketing agreement and order.

The effective date of this determination is the date of publication in the FEDERAL REGISTER.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup. 608c)

Issued this 10th day of August 1950.

[SEAL] C. J. McCORMICK,
Acting Secretary of Agriculture.

[F. R. Doc. 50-7113; Filed, Aug. 14, 1950;
8:51 a. m.]

PART 973—MILK IN MINNEAPOLIS-ST. PAUL, MINNESOTA, MARKETING AREA

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AUTHORITY: §§ 973.0 to 973.103 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup. 608c.

§ 973.0 *Findings and determinations.* The findings and determinations herein-after set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of each of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hear-

ing was held upon certain proposed amendments to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Minneapolis-St. Paul, Minnesota marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds and other economic conditions which affect market supplies of and demand for milk in the said marketing area, and the minimum prices specified in the order, as amended, and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(3) The said order, as amended, and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this part amending the order, as amended, effective not later than August 16, 1950. Any delay beyond August 16, 1950, in the effective date of this part, amending the said order, as amended, will seriously disrupt the orderly marketing of milk for the Minneapolis-St. Paul, Minnesota, marketing area. The changes effected by this part, amending the order, as amended, do not require of persons affected, substantial or extensive preparation prior to the effective date. In view of the foregoing it is hereby found that good cause exists for making this part effective August 16, 1950 (see sec. 4 (c) Administrative Procedure Act 5 U. S. C. 1003 (c)).

(c) *Determinations.* It is hereby determined that handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the milk covered by this part, amending the order as amended, which is marketed within the Minneapolis-St. Paul, Minnesota, marketing area) refused or failed to sign the proposed marketing agreement regulating the handling of milk in the Minneapolis-St. Paul, Minnesota, marketing area, and it is hereby further determined that:

(1) The refusal or failure of such handlers to sign said proposed marketing agreement tends to prevent the effectuation of the declared policy of the act;

(2) The issuance of this part amending the order, as amended, is the only practicable means pursuant to the declared policy of the act of advancing the interests of producers of milk which is produced for sale in the Minneapolis-St. Paul, Minnesota, marketing area;

(3) The issuance of this part amending the order, as amended, is approved or favored by at least three-fourths of the producers, who, during the deter-

mined representative period (May 1950) were engaged in the production of milk for sale in the Minneapolis-St. Paul, Minnesota, marketing area; and

(4) The provision of this part amending the order providing for the payment to all producers delivering milk to the same handler of uniform prices for all milk delivered by them is approved or favored by at least three-fourths of the producers, who, during the determined representative period (May 1950) were engaged in the production of milk for sale in the Minneapolis-St. Paul, Minnesota, marketing area.

ORDER RELATIVE TO HANDLING

It is therefore ordered that on and after the effective date hereof, the handling of milk in the Minneapolis-St. Paul, Minnesota, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended; and the aforesaid order, as amended, is hereby further amended to read as follows:

§ 973.1 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended.

§ 973.2 *Secretary.* "Secretary" means the Secretary of Agriculture or any officer or employee of the United States who is authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

§ 973.3 *Department of Agriculture.* "Department of Agriculture" means the United States Department of Agriculture or such other Federal agency as may be authorized to perform the price reporting functions of the United States Department of Agriculture.

§ 973.4 *Minneapolis-St. Paul, Minnesota, marketing area.* "Minneapolis-St. Paul, Minnesota, marketing area" hereinafter called the "marketing area" means the territory within the corporate limits of the cities of Minneapolis, Robbinsdale, and Wayzata in Hennepin County; Columbia Heights in Anoka County; St. Paul and White Bear in Ramsey County; West St. Paul and South St. Paul in Dakota County; together with the following townships and all villages therein: Brooklyn, Crystal, St. Anthony, Golden Valley, St. Louis Park, Orono, Excelsior, Minnetonka, Edina, Bloomington, and Richfield in Hennepin County; Fridley in Anoka County; Mounds View, Rose, White Bear, and New Canada in Ramsey County; Grant, Oakdale, Woodbury, Cottage Grove, and Newport in Washington County; and Mendota, West St. Paul, and Inver Grove in Dakota County; all in the State of Minnesota.

§ 973.5 *Pool plant.* "Pool plant" means any milk processing plant during any delivery period within which skim milk or butterfat (a) is disposed of as Class I milk from such plant on wholesale or retail routes (including plant stores) within the marketing area, (b) is transferred as Class I milk from such plant to a plant described in paragraph (a) of this section unless such transfer

is made only during the months of August to November, inclusive, or (c) is transferred as Class I milk from such plant to a plant described in paragraph (b) of this section unless such transfer is made only during the months of August to November, inclusive. Any such plant shall continue to be a "pool plant" during any delivery period in which skim milk or butterfat is transferred as Class I milk from such plant to another pool plant until August 1 of the year following that in which such transfer was last made.

§ 973.6 *Nonpool plant.* "Nonpool plant" means any milk-processing plant during any delivery period when such plant does not meet the requirements set forth in § 973.5. Any such plant shall become a "pool plant" during any delivery period within which it meets the requirements set forth in § 973.5.

§ 973.7 *Person.* "Person" means any individual, partnership, corporation, association, or any other business unit.

§ 973.8 *Producer.* "Producer" means any person, irrespective of whether such person is also a handler, who produces milk which is received directly from such person's farm at a pool plant.

§ 973.9 *Handler.* "Handler" means any person, irrespective of whether such person is also a producer, in his capacity as the operator of a pool plant.

§ 973.10 *Producer-handler.* "Producer-handler" means any person who is both a producer and a handler and who receives no milk directly from the farms of other producers: *Provided*, That the maintenance, care, and management of the dairy animals and other resources necessary to produce the milk, and the processing, packaging, and distribution of the milk are the personal enterprise and the personal risk of such person.

§ 973.11 *Cooperative association.* "Cooperative association" means any cooperative marketing association of producers which the Secretary determines to be qualified pursuant to the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act", and to be engaged in making collective sales or marketing of milk or its products for the producers thereof.

§ 973.12 *Market administrator.* "Market administrator" means the person designated pursuant to § 973.20 as the agency for the administration of this part.

§ 973.13 *Delivery period.* "Delivery period" means a calendar month or the portion thereof during which this part is in effect.

MARKET ADMINISTRATOR

§ 973.20 *Designation.* The agency for the administration of this part shall be a market administrator who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 973.21 *Powers.* The market administrator shall:

(a) Administer the terms and provisions of this part;

(b) Receive, investigate, and report to the Secretary complaints of violations of the terms and provisions of this part;

(c) Recommend to the Secretary amendments to this part; and

(d) Make rules and regulations to effectuate the terms and provisions of this part.

§ 973.22 *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including but not limited to, the following:

(a) Within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond conditioned upon the faithful performance of his duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Pay, out of the funds provided by § 973.90, the cost of his bond, his own compensation, and all other expenses necessarily incurred in the maintenance and functioning of his office, except as provided by § 973.91;

(c) Keep such books and records as will clearly reflect the transactions provided for in this part and surrender the same to his successor or to such other person as the Secretary may designate;

(d) Unless otherwise directed by the Secretary publicly disclose within 30 days after such nonperformance becomes known to the market administrator, the name of any person who, within 20 days after the date on which he is required to perform such acts, has not (1) made reports pursuant to § 973.30 or (2) made payments pursuant to §§ 973.80 and 973.83; and may at any time thereafter so disclose any such name if authorized by the Secretary;

(e) Verify each handler's records and payments by inspection of such handler's records and the records of any other person upon whose utilization the classification of skim milk or butterfat for such handler depends; and

(f) Prepare and disseminate to the public such statistics and information concerning the operations under this part as he deems advisable and as do not reveal confidential information.

REPORTS, RECORDS, AND FACILITIES

§ 973.30 *Delivery period of reports of receipts and utilization.* On or before the 8th day of each delivery period, each handler, except a producer-handler, shall report to the market administrator with respect to all skim milk and butterfat, except that in nonfluid milk products, disposed of in the form in which received without further processing or packaging, received by him at each pool plant during the preceding delivery period in the detail and on forms prescribed by the market administrator:

(a) The quantities of skim milk and the quantities of butterfat contained in (or used in the production of) receipts from producers (including his own production), producer-handlers, pool plants and nonpool plants, and the sources thereof;

(b) The utilization of all skim milk or butterfat disposed of;

(c) The quantities of skim milk and butterfat on hand at the beginning and end of each delivery period; and

(d) Such other information with respect to all such receipts and utilization as the market administrator may prescribe.

§ 973.31 *Reports of producer-handlers.* Each producer-handler shall report to the market administrator at such time and in such manner as the market administrator may prescribe.

§ 973.32 *Reports as to producers.* Each handler, upon the request of the market administrator, shall, on or before the 25th day of each delivery period, submit to the market administrator such handler's producer payroll for the preceding delivery period which shall show for each producer (a) the total pounds of milk delivered with the average butterfat test thereof, and (b) the net amount of such handler's payments to such producer or to a cooperative association together with the prices, deductions, and charges involved.

§ 973.33 *Records and facilities.* Each handler shall permit the market administrator to make such examinations of his operations, equipment, and facilities as the market administrator deems necessary and he shall maintain and make available to the market administrator during the usual hours of business, such accounts and records of his operations and such facilities as the market administrator deems necessary to verify or to establish the correct data with respect to (a) the receipts and utilization in whatever form of all skim milk and butterfat received, including nonfluid milk products disposed of in the form in which received without further processing or packaging; (b) the weights and tests for butterfat and for other content of all skim milk or butterfat handled, (c) payments to producers and cooperative associations, and (d) the pounds of skim milk and butterfat contained in or represented by all milk, skim milk, cream, and each milk product on hand at the beginning and at the end of each delivery period.

§ 973.34 *Retention of records.* All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain, except that all such books and records pertaining to transactions before August 1, 1946, shall be retained until October 1, 1949: *Provided*, That if, within such three-year period or before October 1, 1949, whichever is applicable, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case the market administrator shall give further written notification to the handler promptly upon the termina-

tion of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 973.40 *Skim milk and butterfat to be classified.* All skim milk and butterfat, except that in nonfluid milk products disposed of in the form in which received without further processing or packaging, received by a handler during each delivery period, shall be classified by the market administrator pursuant to the provisions of §§ 973.41 to 973.45.

§ 973.41 *Classes of utilization.* Subject to the conditions set forth in §§ 973.42 and 973.43, the classes of utilization shall be as follows:

(a) Class I milk shall be all skim milk and butterfat disposed of for consumption in the form of milk, skim milk, buttermilk, flavored milk, flavored milk drinks (except flavored milk and flavored milk drinks in hermetically sealed containers), cream (sweet or sour including a mixture of cream and milk or skim milk containing less butterfat than the legal standard for cream), eggnog, aerated cream, ready whipped cream, and mixes for toppings and uses similar to those of whipped cream, and all skim milk and butterfat not specifically accounted for pursuant to paragraph (b) of this section.

(b) Class II milk shall be all skim milk disposed of as animal feed and all skim milk and butterfat used to produce a milk product other than those specified in paragraph (a) of this section.

§ 973.42 *Responsibility of handlers and reclassification of milk.* (a) All skim milk and butterfat purchased or received by a handler shall be Class I milk unless the handler who first received such skim milk and butterfat proves to the market administrator that it should be classified otherwise.

(b) Any skim milk and butterfat shall be reclassified if verification by the market administrator discloses that the original classification was incorrect.

§ 973.43 *Transfers.* Skim milk or butterfat disposed of by a handler by transfer shall be classified:

(a) As Class I milk if transferred in the form of milk, skim milk, or cream to another handler (other than a producer-handler), unless utilization in Class II is mutually indicated in writing to the market administrator by both handlers on or before the 8th day after the end of the delivery period within which such transfer occurred, but in no event shall the amount classified in either class exceed the total use in such class by the transferee handler: *Provided*, That, if either or both handlers have received skim milk or butterfat from a nonpool plant, the skim milk or butterfat transferred from a pool plant shall be classified at both plants so as to return the highest class utilization to milk of producers.

(b) As Class I milk if transferred in the form of milk, skim milk, or cream to a producer-handler.

(c) As Class I milk if transferred in the form of milk, skim milk, or cream to a nonpool plant located less than 100

miles from the marketing area unless (1) the handler claims other classification on the basis of utilization mutually indicated in writing to the market administrator by both the handler and the person who received such milk, on or before the 8th day after the end of the delivery period within which such transfer occurred, (2) the nonpool plant maintains records showing the receipt and utilization of all skim milk and butterfat at such plant which are made available to the market administrator for the purpose of verification, and (3) such nonpool plant had actually used not less than an equivalent amount of skim milk and butterfat in the use indicated in such statement: *Provided*, That if verification of such records discloses that an equivalent amount of skim milk and butterfat had not been used in such indicated utilization, the remaining pounds shall be classified in the remaining class.

(d) As Class I milk if transferred in the form of milk or skim milk and as Class II milk if transferred in the form of cream to a nonpool plant located more than 100 miles from the marketing area.

§ 973.44 *Computation of milk in each class.* For each delivery period the market administrator shall correct mathematical and other obvious errors in the delivery period report submitted by each handler and shall compute the total pounds of skim milk and butterfat, respectively, in Class I milk and Class II milk for each handler.

§ 973.45 *Allocation of skim milk and butterfat classified.* After computing the classification of all skim milk and butterfat received by a handler, the market administrator shall determine the classification of milk received from producers as follows:

(a) Skim milk shall be allocated in the following manner: (1) Subtract from the pounds of skim milk in Class II the pounds of skim milk received from nonpool plants: *Provided*, That if the receipts from nonpool plants are greater than the pounds of skim milk remaining in Class II an amount equal to the difference shall be subtracted from the pounds of skim milk in Class I; (2) subtract from the remaining pounds of skim milk in each class, respectively, the pounds of skim milk received from other pool plants in accordance with its classification as determined pursuant to § 973.43 (a); (3) if the total pounds of skim milk remaining in both classes exceed the pounds of skim milk received from producers, an amount equal to the difference shall be subtracted from Class II: *Provided*, That if the remaining pounds of skim milk in Class II are less than the amount to be subtracted, an amount equal to the difference shall be subtracted from Class I.

(b) Butterfat shall be allocated in accordance with the same procedure outlined for skim milk in paragraph (a) of this section.

(c) Determine, respectively, the weighted average butterfat content of the milk received from producers and allocated to Class I milk and Class II milk pursuant to paragraphs (a) and (b) of this section.

MINIMUM PRICES

§ 973.50 *Class prices.* Each handler shall, subject to the provisions of §§ 973.52 and 973.53, pay at the time and in the manner set forth in § 973.80 not less than the prices set forth in this paragraph per hundredweight of milk received during each delivery period at such handler's plant.

(a) *For Class I milk.* The price shall be the basic price determined pursuant to § 973.51 plus 50 cents during the delivery periods of January to June, inclusive; plus 70 cents during the delivery periods of July and December; plus 85 cents during the delivery periods of August to November, inclusive.

(b) *For Class II milk.* The price shall be that determined by the market administrator as follows: (1) Multiply by 4.24 the average wholesale price per pound of 93-score butter at New York as reported by the Department of Agriculture for the delivery period in which such milk was received; (2) multiply by 8.2 the average price of spray process nonfat dry milk solids for human consumption, in carlots f. o. b. manufacturing plants as reported for the Chicago area by the Department of Agriculture for the delivery period during which the milk was received; (3) add into one sum the amounts obtained in subparagraphs (1) and (2) of this paragraph and (4) subtract 65 cents therefrom.

§ 973.51 *Basic prices.* The basic price to be used in determining the price per hundredweight of Class I milk shall be the price for Class II milk computed pursuant to § 973.50 (b) or that derived from either of the formulas set forth in paragraphs (a) and (b) of this section, whichever is the highest.

(a) The average of the basic or field prices ascertained to have been paid for milk of 3.5 percent butterfat content received during the delivery period at the following plants or places for which prices are reported to the market administrator by the listed companies or by the Department of Agriculture:

Companies and Locations

Borden Co., Mount Pleasant, Mich.
Carnation Co., Sparta, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., Wayland, Mich.
Pet Milk Co., Coopersville, Mich.
Borden Co., Black Creek, Wis.
Borden Co., Greenville, Wis.
Borden Co., Orfordville, Wis.
Borden Co., New London, Wis.
Carnation Co., Chilton, Wis.
Carnation Co., Berlin, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Jefferson, Wis.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Belleville, Wis.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

(b) (1) Multiply the average wholesale price per pound of 93-score butter at New York for said delivery period as reported by the Department of Agriculture by six (6); (2) add 2.4 times the weekly prevailing price of "Cheddars" during said delivery period on the Wisconsin Cheese Exchange at Plymouth, Wisconsin, as reported by the Department of Agriculture; (3) divide the re-

sulting sum by seven (7); (4) add 30 percent thereof; and (5) multiply the resulting sum by 3.5.

§ 973.52 *Location differential to handlers.* With respect to milk purchased or received at a pool plant located more than 15 miles from the Minnesota Transfer Viaduct over University Avenue in St. Paul and which is classified as Class I milk, the price per hundredweight computed pursuant to § 973.50 (a) shall be reduced one cent for each full mile that such plant is more than 15 miles distant from such viaduct. Such deduction shall be based on the shortest highway distance from such pool plant as determined by the market administrator.

For purposes of this section the milk which is classified as Class I milk during each delivery period shall be considered to have been first that which was received from producers at such handler's pool plants located within the marketing area, and then that milk which was received from producers at such handler's other pool plants located nearest to the marketing area.

§ 973.53 *Butterfat differentials to handlers.* (a) If the average butterfat content of the milk disposed of by any handler as Class I milk is more or less than 3.5 percent, there shall be added to the Class I price per hundredweight computed pursuant to § 973.50 (a) for each one-tenth of 1 percent that the average butterfat content of such Class I milk is above 3.5 percent or shall be subtracted for each one-tenth of 1 percent that the average butterfat content of such Class I milk is below 3.5 percent an amount computed by the market administrator as follows: To the average wholesale price per pound of 93-score butter at New York as reported by the Department of Agriculture for the delivery period add 25 percent and divide the sum obtained by 10.

(b) If the average butterfat content of the milk disposed of by any handler as Class II milk is more or less than 3.5 percent, there shall be added to the Class II price per hundredweight computed pursuant to § 973.50 (b) for each one-tenth of 1 percent that the average butterfat content of such Class II milk is above 3.5 percent or shall be subtracted for each one-tenth of 1 percent that the average butterfat content of such Class II milk is below 3.5 percent an amount computed by the market administrator as follows: To the average wholesale price per pound of 93-score butter at New York as reported by the Department of Agriculture for the delivery period add 21.14 percent and divide the sum obtained by 10.

§ 973.54 *Emergency price provision.* Whenever the provisions hereof require the market administrator to use a specific price (or prices) for milk or for any milk product for the purpose of determining class prices or for any other purpose, the market administrator shall add to the specified price the amount of any subsidy or other similar payment being made by any Federal agency in connection with the milk or product associated with the price specified: *Provided*, That if for any reason the price specified is

not reported or published as indicated the market administrator shall use the applicable maximum uniform price established by regulations of any Federal agency plus the amount of any such subsidy or other similar payment: *And provided further*, That if the specified price is not reported or published and there is no applicable maximum uniform price, or if the specified price is not reported or published and the Secretary determines that the market price is below the applicable maximum uniform price, the market administrator shall use a price determined by the Secretary to be equivalent to or comparable with the price specified.

APPLICATION OF PROVISIONS

§ 973.60 *Application to producer-handlers.* Sections 973.40 to 973.46, 973.50 to 973.54, 973.70 to 973.78, 973.80 to 973.84, and 973.90 to 973.92 shall not apply to the handling of milk by producer-handlers.

§ 973.61 *Producer-handlers.* Handlers shall furnish to the market administrator for his verification, subject to review by the Secretary, evidence of their qualifications as producer-handlers pursuant to § 973.10, as of the effective date of this part, and they shall furnish evidence of subsequent changes made in the manner of producing or distributing milk that affect their qualifications as producer-handlers; such verification by the market administrator shall be made within 15 days of the receipt of the evidence and shall be retroactive to the effective date of this part in cases verified within 45 days of such effective date and shall be effective retroactively to the first day of the delivery period during which verification is made in subsequent cases.

§ 973.62 *Sales of milk by a producer-handler.* A producer-handler who sells or disposes of skim milk or butterfat in bulk in the form of whole milk to another handler or producer-handler shall be considered a producer with respect to such skim milk or butterfat.

§ 973.63 *Handlers who receive milk from two groups of producers.* In the case of a handler who is required by any health authority in the marketing area to separate his producers into two groups and to receive and handle separately the milk received from each group, the market administrator shall compute a uniform price for each group of producers in the manner provided in § 973.71, if the handler files separate reports for each group, and the milk is handled in such a manner and the records of the handler are so kept that the market administrator can verify the utilization of the milk received from each group.

DETERMINATION OF UNIFORM PRICES TO PRODUCERS

§ 973.70 *Computation of the value of milk received from producers.* The value of the milk received directly from producers' farms during each delivery period by each handler shall be a sum of money computed by the market administrator by multiplying the pounds of milk in each class by the applicable class price and adding together the resulting amounts: *Provided*, That if any

skim milk has been subtracted pursuant to § 973.45 (a) (3), or if any butterfat has been similarly subtracted, there shall be added to the above value an amount computed by multiplying the pounds of skim milk and butterfat so subtracted by the applicable class prices.

§ 973.71 *Computation of the uniform price for each handler.* The market administrator shall compute the uniform price per hundredweight for milk purchased or received directly from producers' farms during the delivery period by each handler as follows:

(a) To the value computed pursuant to § 973.70 add an amount equal to the total value of the location differentials computed pursuant to § 973.82.

(b) From the sum obtained in paragraph (a) of this section subtract, if the average butterfat content of all milk received by such handler directly from producers' farms is more than 3.5 percent, or add, if such average butterfat content is less than 3.5 percent, an amount computed as follows: Multiply the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 973.81 and multiply the result by the total hundredweight of milk received directly from producers' farms.

(c) Adjust the resulting sum by an amount representing the fraction used in adjusting the uniform price for the previous delivery period to the nearest cent.

(d) Divide the result by the total hundredweight of milk received directly from producers' farms.

(e) Adjust the resulting figure to the nearest cent. This shall be known as the uniform price per hundredweight for each handler for milk of 3.5 percent butterfat content delivered to the marketing area.

§ 973.72 *Announcement of class prices.* On or before the 6th day after the end of the delivery period the market administrator shall mail to all handlers and make public announcement of the class prices computed pursuant to § 973.50 and the butterfat differentials computed pursuant to § 973.53 and § 973.81.

§ 973.73 *Announcement of uniform prices.* On or before the 15th day after the end of each delivery period the market administrator shall notify each handler and make public announcement of the uniform prices computed pursuant to § 973.71.

PAYMENTS FOR MILK

§ 973.80 *Time and method of payment.* Each handler shall make payment as follows:

(a) On or before the 20th day after the end of the delivery period in which the milk was received, to each producer for milk not caused to be delivered directly from such producers' farms to such handler by a cooperative association, at not less than the uniform price computed pursuant to § 973.71, subject to the differentials set forth in §§ 973.81 and 973.82.

(b) On or before the 15th day after the end of the delivery period in which

the milk was received, to a cooperative association for milk which it caused to be delivered directly from producers' farms to such handler and for which such cooperative association collects payment, a total amount equal to not less than the sum of the individual payments otherwise payable to such producers pursuant to paragraph (a) of this section, and less the amount of the payment made pursuant to paragraph (d) of this section.

(c) On or before the 10th day after the end of the delivery period in which the skim milk or butterfat was received, to a cooperative association for skim milk or butterfat purchased or received from such cooperative association at not less than the class prices computed pursuant to § 973.50, subject to the differentials set forth in §§ 973.52 and 973.53, and less the amount of the payment made pursuant to paragraph (d) of this section.

(d) On or before the 20th day of the delivery period in which such skim milk and butterfat was received, to a cooperative association, if it so requests, for skim milk and butterfat which was purchased or received from such cooperative association and for skim milk and butterfat which such cooperative association caused to be delivered directly from producers' farms to the plant of such handler during the first 15 days of such delivery period at the approximate value of such skim milk or butterfat.

§ 973.81 *Butterfat differential to producers.* If, during the delivery period, any handler has purchased or received from any producer, milk having an average butterfat content other than 3.5 percent, such handler in making the payment prescribed in § 973.80 (a) and (b) shall add to the uniform price per hundredweight payable to such producer for each one-tenth of 1 percent that the butterfat content in milk is above 3.5 percent not less than, or shall deduct from the uniform price per hundredweight for each one-tenth of 1 percent that the butterfat content in milk is below 3.5 percent not more than an amount computed by the market administrator as follows: To the average wholesale price per pound of 93-score butter at New York as reported by the Department of Agriculture for the delivery period, add 20 percent and divide the resulting sum by ten (10).

§ 973.82 *Location differential to producers.* In making payment pursuant to § 973.80 (a) and (b) for milk received from producers at a pool plant located more than 15 miles from the Minnesota Transfer Viaduct over University Avenue in St. Paul, each handler shall deduct from the uniform price payable to such producers an amount equal to one cent per hundredweight for each full mile that the plant where such milk was received is more than 15 miles distant from such viaduct.

§ 973.83 *Correction of errors in payments to producers.* Errors in making any of the payments prescribed in § 973.80 shall be corrected not later than the date for making payments next following the determination of such errors. Any correction affecting all producers delivering to any handler during the

period in which such error occurred shall be corrected in such manner as the market administrator shall determine to be equitable, either by (a) adjustment of the account of each individual producer who delivered during such period on the basis of a recomputation of the price of such handler, or (b) by addition or subtraction of the amount of such correction to or from the value of all milk received by such handler in the delivery period during which such error was determined, computed as set forth in § 973.70.

§ 973.84 *Statement to producers.* In making the payments required by this section, each handler shall furnish each producer with a supporting statement in such form that it may be retained by the producer, which shall show:

(a) The delivery period and the identity of the handler and of the producer;

(b) The total pounds and the average butterfat content of the milk delivered by the producer;

(c) The minimum rate or rates at which payment to the producer is required under the provisions of §§ 973.80 and 973.83;

(d) The rate which is used in making the payment if such rate is other than the applicable minimum;

(e) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deduction claimed under § 973.91, together with a description of the respective deductions; and

(f) The net amount of payment to the producer.

MISCELLANEOUS

§ 973.90 *Expense of administration.* As his prorata share of the expense of administration of this part each handler, with respect to all milk purchased or received directly from producers' farms (including such handler's own production) and which is disposed of as Class I milk during the delivery period, shall pay to the market administrator, on or before the 18th day after the end of such delivery period, 2 cents per hundredweight or such lesser amount as the Secretary from time to time may prescribe.

§ 973.91 *Marketing services.*—(a) *Deductions for marketing services.* Except as set forth in paragraph (b) of this section each handler in making payments to producers (other than himself) pursuant to § 973.80 shall make a deduction of 2 cents per hundredweight or such lesser deduction as the Secretary from time to time may prescribe, with respect to all milk purchased or received directly from producers' farms during the delivery period and shall pay such deductions to the market administrator on or before the 18th day after the end of such delivery period. Such money shall be expended by the market administrator for market information to, and for the verification of weights, sampling, and testing of milk purchased or received from said producers.

(b) *Producers' cooperative associations.* In the case of producers for whom a cooperative association which the Secretary determines to be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known

as the "Capper-Volstead Act" is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, no such deduction shall be made.

§ 973.92 *Termination of obligation.* The provisions of this section shall apply to any obligation under this order for the payment of money irrespective of when such obligation arose except an obligation involved in an action instituted before August 1, 1949, under section 8c (15) (A) of the act or before a court.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to the following information: (1) The amount of the obligation; (2) the month(s) during which the milk, with respect to which the obligation exists, was received or handled; and (3) if the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is

claimed, unless such handler, within the applicable period of time, files, pursuant to section 9c (15) (A) of the act, a petition claiming such money.

§ 973.93 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

EFFECTIVE TIME, SUSPENSION, AND TERMINATION

§ 973.100 *Effective time.* The provisions of this part or any amendment to this part shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 973.101.

§ 973.101 *Suspension or termination.* The Secretary shall suspend or terminate any or all of the provisions of this part, whenever he finds that it obstructs or does not tend to effectuate the declared policy of the act. This part shall, in any event terminate whenever the provisions of the act authorizing it cease to be in effect.

§ 973.102 *Continuing power and duty of the market administrator.* If, upon the suspension or termination of any or all of the provisions of this part, there are any obligations arising under this part, the final accrual or ascertainment of which requires acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided,* That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

The market administrator, or such other person as the Secretary may designate shall:

(a) Continue in such capacity until discharged by the Secretary;

(b) From time to time account for all receipts and disbursements and deliver all funds or property on hand, together with the books and records of the market administrator, or such person, to such person as the Secretary shall direct; and

(c) If so directed by the Secretary execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant thereto.

§ 973.103 *Liquidation after suspension or termination.* Upon the suspension or termination of any or all provisions of this part, the market administrator, or such person as the Secretary may designate shall, if so directed by the Secretary, liquidate the business of the market administrator's office, and dispose of all funds and property then in his possession or under his control together with claims for any funds which are unpaid at the time of such suspension or termination. Any funds collected pursuant to the provisions of this part, over and above the amounts necessary

to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

Issued at Washington, D. C., this 10th day of August 1950 to be effective on and after the 16th day of August 1950.

[SEAL] C. J. McCORMICK,
Acting Secretary of Agriculture.

[F. R. Doc. 50-7112; Filed, Aug. 14, 1950;
8:51 a. m.]

PART 998—IRISH POTATOES GROWN IN NEW JERSEY

EXEMPTION CERTIFICATES AND SAFEGUARDS

A notice of proposed rule-making regarding rules and regulations for the issuance of exemption certificates and the establishment of safeguards, to be made effective under Marketing Agreement No. 116 and Order No. 98 (15 F. R. 1925, 2036) regulating the handling of Irish potatoes grown in New Jersey, was published in the FEDERAL REGISTER (15 F. R. 4521). This regulatory program is effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; 61 Stat. 202, 707; 62 Stat. 1247; 63 Stat. 1051). After consideration of all relevant matters presented, including the rules and regulations set forth in the aforesaid notice, which rules and regulations were adopted and submitted for approval by the New Jersey Potato Marketing Committee, established pursuant to said market agreement and order, the following rules and regulations are hereby approved.

It is hereby found that it is impracticable and contrary to the public interest to give 30-day notice of the effective date of this subpart in that (a) shipments of potatoes from the production area are now being made and have been taking place since the beginning of harvest for the 1950 crop year; (b) more orderly marketing in the public interest than would otherwise prevail will be promoted by effectuating the rules and regulations hereinafter set forth on and after the effective date of this subpart; (c) compliance with the rules and regulations will require no preparation on the part of producers and handlers which cannot be completed by the effective date of this subpart; (d) notice has been given of the proposed rules and regulations by publication thereof as required by law (15 F. R. 4521); and (e) the rules and regulations should be approved upon publication of this subpart in order to effectuate the declared policy of the act.

Sec.
998.101 Definitions.
998.102 Area determinations.
998.103 Exemption certificates.
998.104 Safeguards for special purpose shipments.

AUTHORITY: §§ 998.101 to 998.104 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup., 608c.

§ 998.101 *Definitions.* For the purpose of §§ 998.101 to 998.104, inclusive, "agreement" means Marketing Agreement No. 116 and "order" means Order No. 98 (15 F. R. 1925, 2036), regulating the handling of Irish potatoes grown in New Jersey, and the terms used in such sections shall have the same meanings as set forth in said agreement and order.

§ 998.102 *Area determinations.* The committee determines, pursuant to § 998.68, that:

(a) "Immediate production area" means each one of the districts established pursuant to § 998.11; and

(b) "Immediate shipping area" means each one of the districts established pursuant to § 998.11.

§ 998.103 *Exemption certificates—(a) Application.* Any producer or handler applying for exemption from regulations issued pursuant to § 998.51, shall file such application with the committee, or its duly designated agent, for such purpose on forms to be furnished by the committee.

Each application shall state (i) the name and address of the applicant for exemption, (ii) the grade, size, and quality regulations from which exemption is requested, and (iii) facts demonstrating that the potatoes, for which exemption is requested, were adversely affected by acts beyond the applicant's reasonable expectation and control. In addition, applications shall set forth such additional information as the committee may find necessary in making determinations with respect thereto, including, without limitation thereto, the information required on producer applications by subparagraphs (1), (2), and (3) of this paragraph, and the information required on handler applications by subparagraphs (4) and (5) of this paragraph:

(1) The location of the farm or farms on which potatoes, for which exemption is requested, were produced, the location where such potatoes are to be processed, and the loading point from which such potatoes are to be shipped if the exemption is granted;

(2) The applicant's acreage of potatoes, by varieties, for the production season in which the application is filed, the total hundredweight of such potatoes harvested on the date of the application, and the total hundredweight of such harvested potatoes which have been disposed of;

(3) The acreage of potatoes which the applicant will harvest subsequent to the date of such application, the estimate total yield therefrom, the estimated percentage thereof which can be handled under regulations in effect at the time of such harvest, and the reasons why the remainder of such unharvested potatoes cannot be handled under such regulations;

(4) The quantity (by grade, size, and variety) of potatoes acquired by the applicant and stored during and immediately following the digging season, together with a statement as to the reasons why the specified quantity of such potatoes remaining in storage cannot be handled under regulations in effect on

and subsequent to the date of the application;

(5) The quantity (by grade, size, and variety) of potatoes acquired by the applicant and stored during and immediately following the digging season, which were handled prior to the date of the application.

(b) *Issuance.* (1) The committee shall give prompt consideration to all statements and facts relating to each application for exemption and, pursuant to the applicable terms of the marketing agreement and order, a determination shall be made as to whether or not the application is approved. The determination, if approving the application, shall be evidenced by the issuance of a certificate of exemption pursuant to § 998.68: *Provided*, That subcertificates of exemption may be issued, at the request of an applicant, where the total quantity of potatoes authorized to be handled under exemption will be handled in more than one shipment. If the applicant's request for exemption is denied, he shall be so notified in writing.

(2) Each exemption certificate issued pursuant to this subpart shall be on a form duly approved by the committee and signed by an authorized representative of the committee. Each exemption certificate shall be issued in triplicate, with the original and one copy delivered to the person receiving the exemption, and one copy retained for the committee's records. Each such certificate shall contain the name and address of the recipient; the location and quantity of all potatoes authorized to be shipped under the exemption certificate; and the exceptions from the grade and size regulations which will be permitted in the exempted shipments.

(c) *Transfer of certificates.* Certificates or subcertificates of exemption shall be transferred with each lot of potatoes handled. The transferor of such certificates shall notify the committee within seven days following such transfer, stating the name and address of the person to whom the potatoes were sold or delivered, the quantity sold or delivered, date of the transaction, and such other information as may be requested by the committee.

(d) *Appeals.* If any applicant is dissatisfied with the determination of the committee regarding an application for an exemption certificate, or any duly issued exemption certificate, an appeal by such applicant may be taken to the committee pursuant to § 998.69.

§ 998.104 *Safeguards for special purpose shipments.*—(a) *Application for Certificates of Privilege.* (1) Pursuant to the provisions of § 998.55 and when shipments of potatoes for the following purposes are subject to regulation pursuant to § 998.52, all handlers desiring to make shipments of potatoes for seed, for export, for manufacture or conversion into specified products, or for livestock feed, shall first apply to the committee for and obtain a Certificate or Certificates of Privilege permitting the proposed shipments.

(2) Applications for Certificates of Privilege shall be made on forms furnished by the committee. Each appli-

cation shall contain the name and address of the handler, the quantity of potatoes to be shipped, the grades and sizes of potatoes to be shipped, name of consignee, destination, proof of contract, and such other information as the committee may require in safeguarding against the entry of such potatoes into trade channels other than those for which the Certificate or Certificates of Privilege were granted.

(b) *Shipments of seed potatoes.* Each handler of seed potatoes, when the handling of seed potatoes is subject to regulation pursuant to § 998.52, shall handle such potatoes only after procuring a Certificate of Privilege and supplying an official seed potato certification applicable to such seed potatoes, to the committee; such certification shall contain the name and address of the handler, car or truck number, quantity handled, variety, and destination.

(c) *Commercial shipments other than seed potatoes.* Each handler shipping potatoes for any purpose set forth in paragraph (a) of this section (other than seed) shall supply the committee with a report thereon showing the name and address of the shipper, car or truck number, Federal-State Inspection Certificate number (if such inspection is required by regulation at time of such shipment), loading point, destination, and consignee.

(d) The committee may rescind a Certificate or Certificates of Privilege issued to a handler pursuant to this subpart, or deny a Certificate or Certificates of Privilege to a handler, upon proof satisfactory to the committee that such handler has handled potatoes contrary to the provisions of this section. Such committee action denying a Certificate or Certificates of Privilege shall apply to and not exceed a reasonable period of time as determined by the committee. Any handler who has been denied a Certificate of Privilege or who has had a Certificate of Privilege rescinded, may appeal to the committee for reconsideration. Such appeal shall be in writing.

Done at Washington, D. C., this 10th day of August 1950, to be effective upon the publication hereof in the FEDERAL REGISTER.

[SEAL] C. J. McCORMICK,
Acting Secretary of Agriculture.

[F. R. Doc. 50-7114; Filed, Aug. 14, 1950;
8:51 a. m.]

TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Federal Security Agency

PART 146—CERTIFICATION OF BATCHES OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

PENICILLIN TABLETS WITH SULFONAMIDES

By virtue of the authority vested in the Federal Security Administrator by the provisions of section 507 of the Federal Food, Drug, and Cosmetic Act (52 Stat. 1040, 1055, as amended by 59 Stat. 463, 61 Stat. 11, 63 Stat. 409; 21 U. S. C. and Sup., 357), the regulations for certification of batches of antibiotic and an-

tibiotic-containing drugs (21 CFR 146.1 et seq., and 1949 Supp., as amended, 15 F. R. 1073, 4976) are amended as indicated below:

1. In § 146.27 *Penicillin tablets*, paragraph (a) *Standards of identity, etc.*, first sentence, is amended to read as follows: "Penicillin tablets are tablets composed of sodium penicillin, calcium penicillin, potassium penicillin, or procaine penicillin, with or without two or more suitable sulfonamides and with or without the addition of one or more suitable and harmless buffer substances, diluents, binders, lubricants, colorings, and flavorings."

2. In § 146.27, subparagraph (1) of paragraph (c) *Labeling* is amended by renumbering subdivisions (iii) and (iv) as (iv) and (v), respectively, and by inserting the following new subdivision (iii) between subdivision (ii) and renumbered subdivision (iv):

(iii) If the batch contains sulfonamides, the name and quantity of each such sulfonamide used in making the batch;

3. In § 146.27, paragraph (c) is amended by renumbering subparagraph (3) as (4) and by inserting the following new subparagraph (3) between subparagraph (2) and renumbered subparagraph (4):

(3) On the label and labeling, if sulfonamides are present, after the name "Penicillin tablets," wherever it appears, the words "with sulfonamides," in juxtaposition with such name.

4. In § 146.27, subparagraph (3) (iii) of paragraph (d) *Request for certification; samples*, is amended to read as follows:

(iii) In case of an initial request, each other substance used in making the batch; one package of each, containing approximately 5 gm., and if the batch or any part thereof is to be packaged in combination with an aqueous vehicle, or when any change is made in the composition of such vehicle, five packages of the vehicle included in the combination.

This order, which provides for the certification of penicillin tablets that contain two or more sulfonamides, shall become effective upon publication in the FEDERAL REGISTER, since both the public and the affected industry will be benefited by the earliest effective date, and I so find.

Notice and public procedure are not necessary prerequisites to the promulgation of this order and would be contrary to public interest, and I so find, since it was drawn in collaboration with interested members of the affected industry and since it would be against public interest to delay the effective date of the aforesaid amendments.

(Sec. 701, 52 Stat. 1055; 21 U. S. C. 371. Interpret or apply sec. 507, 59 Stat. 463, as amended; 21 U. S. C. and Sup., 357)

Dated: August 8, 1950.

[SEAL] JOHN L. THURSTON,
Acting Administrator.

[F. R. Doc. 50-7033; Filed, Aug. 14, 1950;
8:48 a. m.]

TITLE 26—INTERNAL REVENUE

Chapter I—Bureau of Internal Revenue, Department of the Treasury

Subchapter C—Miscellaneous Excise Taxes

[Regulations 4]

PART 183—PRODUCTION OF DISTILLED SPIRITS

Preamble. 1. These regulations shall, on and after September 1, 1950, supersede Regulations 4, 1940 Edition (26 CFR Part 183; 5 F. R. 827), and Treasury Decisions 5007 (5 F. R. 3740), 5077 (6 F. R. 5088), 5085 (6 F. R. 5214), 5144 (7 F. R. 3299), 5315 (9 F. R. 251), 5529 (11 F. R. 8713), 5601 (13 F. R. 591), 5622 (13 F. R. 3603), 5634 (13 F. R. 3730), 5663 (13 F. R. 6317), 5712 (14 F. R. 3782), 5715 (14 F. R. 4900), 5727 (14 F. R. 4920), 5743 (14 F. R. 5647), 5747 (14 F. R. 5761), 5752 (14 F. R. 6400), 5774 (15 F. R. 864), 5784 (15 F. R. 2409), and 5789 (15 F. R. 3185).

2. These regulations shall not affect or limit any act done or any liability incurred under any regulations superseded hereby, or any suit, action, or proceeding had or commenced in any civil, administrative, or criminal cause and proceeding prior to the effective date of these regulations, nor shall these regulations release, acquit, affect, or limit any offense committed in violation of previously existing regulations, or any penalty, liability or forfeiture incurred prior to such date.

LAWS OF MORE COMMON APPLICATION PERTAINING TO THE PRODUCTION OF DISTILLED SPIRITS

Sec.	
5 U. S. C. 22	Departmental regulations.
26 U. S. C. 1050	War tax rates of certain miscellaneous taxes.
26 U. S. C. 2800	Tax.
26 U. S. C. 2802	Stamps for distilled spirits.
26 U. S. C. 2806	Penalties and forfeitures.
26 U. S. C. 2808	Instruments to prevent and detect fraud.
26 U. S. C. 2809	Definitions.
26 U. S. C. 2810	Registry of stills.
26 U. S. C. 2812	Notice of business of distiller or rectifier.
26 U. S. C. 2814	Distiller's bond.
26 U. S. C. 2815	Conditions of approval of distiller's bond.
26 U. S. C. 2816	Plan of distillery.
26 U. S. C. 2817	Survey of distillery.
26 U. S. C. 2818	Notice of manufacture of and permit to set up still.
26 U. S. C. 2819	Premises prohibited for distilling.
26 U. S. C. 2820	Receiving cisterns in distilleries.
26 U. S. C. 2821	Penalty for breaking locks or gaining access to cistern room or building.
26 U. S. C. 2822	Requirements as to furnaces, tubs, doublers, worm tanks, and fixed pipes.
26 U. S. C. 2823	Changes in apparatus and fastenings.
26 U. S. C. 2826	Keeping distillery accessible.
26 U. S. C. 2827	Entry and examination of distillery.
26 U. S. C. 2828	Distillers and rectifiers to furnish facilities and give assistance for examination of premises.
26 U. S. C. 2829	Installation of meters, tanks, and other apparatus.
26 U. S. C. 2830	Officer's authority to break up grounds or walls.
26 U. S. C. 2831	Signs of distillers, rectifiers, and wholesale liquor dealers.

Sec.	
26 U. S. C. 2832	Conditions precedent to carrying on business of distilling.
26 U. S. C. 2833	Distilling without giving bond.
26 U. S. C. 2834	Mash, wort, and vinegar; vinegar factories.
26 U. S. C. 2835	Vinegar factories operated prior to March 1, 1879.
26 U. S. C. 2836	Prohibited hours for distilling.
26 U. S. C. 2838	Penalty for using material or removing spirits in absence of storekeeper-gauger.
26 U. S. C. 2839	Drawing off water and cleansing worm tubs.
26 U. S. C. 2841	Distiller's books.
26 U. S. C. 2842	Penalty for using false weights and measures.
26 U. S. C. 2843	Penalty for using unregistered materials.
26 U. S. C. 2844	Monthly production return of distiller.
26 U. S. C. 2846	Assessment for deficiencies in production and excess of material used.
26 U. S. C. 2850	Suspension and resumption of distilling.
26 U. S. C. 2851	Reduction of producing capacity of distillery.
26 U. S. C. 2857	Books of rectifiers and wholesale dealers.
26 U. S. C. 2859	Books of distillers as wholesale dealers.
26 U. S. C. 2866	Effacement of stamps and brands on emptied packages.
26 U. S. C. 2870	Prohibited hours for removal of spirits.
26 U. S. C. 2877	Storekeeper-gauger's records.
26 U. S. C. 2878	Drawing, gauging, and marking of distilled spirits.
26 U. S. C. 2879	Deposits of spirits in warehouses.
26 U. S. C. 2883	Transfer of spirits at registered distilleries.
26 U. S. C. 2885	Exportation of spirits withdrawn from warehouses.
26 U. S. C. 2888	Transfer of spirits into tank cars for export.
26 U. S. C. 2916	Removal for denaturation or destruction of distillates containing aldehydes or fusel oil.
26 U. S. C. 3170	Transfer and delegation of powers.
26 U. S. C. 3171	Records, statements, and returns.
26 U. S. C. 3173	Penalties and forfeitures.
26 U. S. C. 3175	Other laws applicable.
26 U. S. C. 3176	Rules and regulations.
26 U. S. C. 3180	Distilleries erected prior to July 20, 1868.
26 U. S. C. 3250	Tax.
26 U. S. C. 3254	Definitions.
26 U. S. C. 3270	Registration.
26 U. S. C. 3271	Payment of tax.
26 U. S. C. 3272	Returns.
26 U. S. C. 3300	Establishment and alteration.
26 U. S. C. 3301	Attachment and cancellation.
26 U. S. C. 3656	Payment by check and money orders.
26 U. S. C. 3791	Rules and regulations.
26 U. S. C. 3809	Verification of returns; penalties of perjury.
26 U. S. C. 4017	Daily gauging return.
26 U. S. C. 4041	Issue of instructions, regulations, and forms.

REGULATIONS GOVERNING THE PRODUCTION OF DISTILLED SPIRITS

SUBPART A—SCOPE OF REGULATIONS

Sec.	
183.1	Production and removal of distilled spirits.
	SUBPART B—DEFINITIONS
183.5	Meaning of terms.
183.6	Approved containers.

Sec.	
183.7	Beer.
183.8	Brandy.
183.9	Collector.
183.10	Commissioner.
183.11	Distilled spirits.
183.12	Distiller.
183.13	Distillery.
183.14	Distillery premises.
183.15	District supervisor or supervisor.
183.16	Fruit distillery.
183.17	Gallon.
183.18	Heads and tails.
183.19	Including.
183.20	Inclusive language.
183.21	I. R. C.
183.22	Laboratory analysis.
183.23	Person, proprietor, or distiller.
183.24	Proof.
183.25	Proof of distillation.
183.26	Proof gallon.
183.27	Proof spirits.
183.28	Registered distillery.
183.29	Secretary.
183.30	Slop or spent beer.
183.31	Spirits.
183.32	Tank car.
183.33	Tax gallon.
183.34	U. S. C.

SUBPART C—LOCATION

183.40	Restrictions.
183.41	Within 600 feet of rectifying plant.
183.42	Special application.
183.43	Changes requiring approval.

SUBPART D—CONSTRUCTION

183.50	Distillery buildings.
183.51	Foundations.
183.52	Floors.
183.53	Walls.
183.54	Roofs.
183.55	Doors.
183.56	Windows in cistern and rectifying rooms.
183.57	Other windows.
183.58	Skylights, monitors, penthouses, etc.
183.59	Ventilators.
183.60	Drains.
183.61	Meal room.
183.62	Granary.
183.63	Fermenting room or building.
183.64	Rectifying room.
183.65	Cistern room.
183.66	Temporary storage room.
183.67	Empty container storeroom.
183.68	Government office.
183.69	Government cabinet.

SUBPART E—SIGN

183.80	Posting of sign.
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SUBPART F—FENCES OR WALLS AND GATES

183.85	Construction.
183.86	Special application.
183.87	Keys to gates.

SUBPART G—EQUIPMENT

183.90	Laboratory apparatus.
183.91	Scales.
183.92	Weighing tanks.
183.93	Construction of weighing tanks.
183.94	Test weights.
183.95	Furnace doors, steam and fuel lines.
183.96	Distilling material storage tanks.
183.97	Off-premises material conveyors.
183.98	Cookers and mash tubs.
183.99	Fermenters.
183.100	Washwater receiving tanks.
183.101	Stills.
183.102	General requirements for tanks.
183.103	Heads and tails tanks.
183.104	Unfinished spirits tanks.
183.105	Fusel oil tanks.
183.106	Distilled water tanks.
183.107	Try boxes.
183.108	Rectifying equipment.
183.109	Receiving cisterns.
183.110	Stopcocks of receiving cisterns.
183.111	Pipe lines.

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183.112 Additional requirements for pipe lines.
183.113 Preparation for sealing flanges.
183.114 Preparation for sealing unions.
183.115 Preparation for sealing valves.
183.116 Colors for pipe lines.
183.117 Sufficient equipment required.
183.118 Details of construction and equipment.
183.119 Distilleries heretofore established.

SUBPART H—QUALIFYING DOCUMENTS

- 183.125 Notice, Form 27-A.
183.126 Permit required.
183.127 Description of premises.
183.128 Description of buildings and rooms.
183.129 Description of fence or wall.
183.130 Fermenting capacity.
183.131 Distilling capacity.
183.132 Daily production.
183.133 Condition of title to premises.
183.134 Condition of title to apparatus and equipment.
183.135 Distance from rectifying plant or vinegar factory.
183.136 Amended and supplemental notices.
183.137 Consent, Form 1602.
183.138 Execution of consent.
183.139 New consent when required.
183.140 Bond in lieu of consent.
183.141 Permission required for filing bond, Form 3-A.
183.142 Application.
183.143 Bond, Form 3-A.
183.144 Appraisal.
183.145 Permission required for filing bond, Form 3.
183.146 Application.
183.147 Bond, Form 3.
183.148 Bond in lieu of consent where premises of distillery erected prior to July 20, 1868, are increased.
183.149 Bond in lieu of consent where distillery is sold for United States.
183.150 Certificate of title.
183.151 Corporate documents.
183.152 List of stockholders.
183.153 Affidavit.
183.154 Articles of copartnership or association.
183.155 Power of attorney, Form 1534.
183.156 Execution of power of attorney.
183.157 Duration of power of attorney.
183.158 Bond, Form 30.
183.159 Penal sum.
183.160 Registry of stills, Form 26.
183.161 Plat and plans.
183.162 Statement of process.
183.163 Additional information.
183.164 Instruments and papers made part of regulations.

SUBPART I—BONDS AND CONSENTS OF SURETY

- 183.170 General requirements.
183.171 Surety or security.
183.172 Corporate surety.
183.173 Two or more corporate sureties.
183.174 Powers of attorney.
183.175 Individual sureties.
183.176 Ownership of real property.
183.177 Description of real property.
183.178 Execution of Form 33.
183.179 Certificate of title.
183.180 Appraisal.
183.181 Investigation.
183.182 Requalification.
183.183 Interest in business.
183.184 Deposit of collateral.
183.185 Consents of surety.
183.186 Approval required.
183.187 Authority to approve.
183.188 Cause for disapproval.
183.189 Additional or strengthening bonds.
183.190 New bond.
183.191 Superseding bond.

SUBPART J—PLATS AND PLANS

- 183.200 Plat and plans required.
183.201 Preparation.
183.202 Depiction of distillery premises.

- Sec.
183.203 Rectifying plant within 600 feet.
183.204 Contiguous premises.
183.205 Floor plans.
183.206 Pipelines in colors.
183.207 Location of valves, flanges, locks, etc.
183.208 Pipelines exempted.
183.209 Elevational flow diagrams.
183.210 Certificate of accuracy.
183.211 Revised plats and plans.

SUBPART K—REQUIREMENTS GOVERNING CHANGES IN NAME, PROPRIETORSHIP, CONTROL, LOCATION, PREMISES AND EQUIPMENT, AND IN THE TITLE TO THE DISTILLERY PROPERTY OR THE ENCUMBRANCE THEREOF

- 183.220 General requirement.
CHANGE IN INDIVIDUAL, FIRM OR CORPORATE NAME
183.221 Amended notice, Form 27-A and amended basic permit.
183.222 Amended articles of incorporation, etc.
183.223 Amended articles of copartnership or association.
183.224 Sign.
183.225 Branding and warehousing.
183.226 Records.
TRADE NAMES
183.227 Basic qualification required.
183.228 Trade names certificate; amended articles of incorporation.
183.229 Sign.
183.230 Branding and warehousing.
183.231 Records.
183.232 Period of operations.
183.233 Subsequent operations.

CHANGES IN PROPRIETORSHIP

- 183.234 Requirements of transfer.
183.235 Notice, Form 27-A.
183.236 Registry of stills.
183.237 Notice of suspension.
183.238 Finished spirits.
183.239 Materials and unfinished spirits.
183.240 Records.
183.241 Qualification of successor.
183.242 Lessee.
183.243 Other nonfiduciary successor.
183.244 Fiduciary.
183.245 Consent of surety.
183.246 Adoption of plat and plans.
183.247 Sign.
183.248 Materials and unfinished spirits.

OTHER CHANGES IN PROPRIETORSHIP OR OF CONTROL

- 183.249 Changes in partnership.
183.250 Changes in stockholders, officers, and directors of corporation.
183.251 Reincorporation.

CHANGES IN LOCATION, PREMISES AND EQUIPMENT

- 183.252 Change in location.
183.253 Changes in premises.
183.254 Changes in construction and use.
183.255 Indemnity bond covering changes in buildings.
183.256 Appraisal.
183.257 Changes in equipment.
183.258 Indemnity bond covering removal of equipment.
183.259 Amended notice and plans covering changes in equipment.

CHANGE IN TITLE TO DISTILLERY PROPERTY OR THE ENCUMBRANCE THEREOF

- 183.260 Change of title.
183.261 Encumbrance.

SUBPART L—REQUIREMENTS GOVERNING OPERATION OF DISTILLERY UNDER ALTERNATING PROPRIETORSHIPS

QUALIFICATIONS FOR INITIAL ALTERNATING PROPRIETORSHIPS

- 183.270 Where no bonded warehouse on premises.
183.271 Where bonded warehouse on premises.

SUSPENSION FOR SUBSEQUENT ALTERNATE PROPRIETORSHIPS

- Sec.
183.272 Requirements.

RESUMPTION FOR SUBSEQUENT ALTERNATE PROPRIETORSHIPS

- 183.273 Requirements.

ACTION BY DISTRICT SUPERVISOR

- 183.274 Approval and disposition of Form 1696.

SUBPART M—REQUIREMENTS GOVERNING ALTERNATE OPERATIONS AS FRUIT DISTILLERY OR INDUSTRIAL ALCOHOL PLANT

QUALIFICATIONS FOR INITIAL ALTERNATING OPERATIONS

- 183.280 Where no bonded warehouse on premises.
183.281 Where bonded warehouse on premises.

SUSPENSION FOR SUBSEQUENT ALTERNATE OPERATIONS

- 183.282 Requirements.

RESUMPTION FOR SUBSEQUENT ALTERNATE OPERATIONS

- 183.283 Requirements.

ACTION BY DISTRICT SUPERVISOR

- 183.284 Approval and disposition of Form 1696.

SUBPART N—ACTION BY DISTRICT SUPERVISOR

ORIGINAL ESTABLISHMENT

- 183.290 Authority to approve.
183.291 Special application.
183.292 Distillery fence application.
183.293 Indemnity bond application.
183.294 Examination of other qualifying documents.
183.295 Inspection of premises.
183.296 Report of inspection.
183.297 Inaccurate documents.
183.298 Defective construction.
183.299 Law violation record.
183.300 Approval of qualifying documents.
183.301 Registry numbers.
183.302 Disapproval of qualifying documents.
183.303 Disposition of qualifying documents.

CHANGES SUBSEQUENT TO ORIGINAL ESTABLISHMENT

- 183.304 Procedure applicable.
183.305 Indemnity bond, Form 1617.
183.306 Applications and reports covering changes.

ANNUAL NOTICES, CONSENTS (FORM 1602) AND BONDS, CONSENTS OF SURETY, AND ADDITIONAL AND SUPERSEDING BONDS

- 183.307 Procedure applicable.

SUBPART O—ACTION BY COMMISSIONER

ORIGINAL ESTABLISHMENT

- 183.310 Review of documents.

CHANGES SUBSEQUENT TO ORIGINAL ESTABLISHMENT

- 183.311 Procedure applicable.

SUBPART P—TERMINATION OF BONDS

- 183.320 Termination of distiller's bond.
183.321 Termination of indemnity bonds, Forms 3 and 3-A.
183.322 Termination of indemnity bonds, Form 1617.
183.323 Termination of export bonds.
183.324 Application of surety for relief from bond.
183.325 Action on application for notice of termination of distiller's bond.
183.326 Action on application for notice of termination of indemnity bond.
183.327 Notice of termination.
183.328 Release of collateral.

SUBPART Q—WAIVER OF SURVEY REQUIREMENTS

- Sec.
183.335 Provisions of law from which exempt.
183.336 Exemption subject to changes.

SUBPART R—MANUFACTURE OF DISTILLED SPIRITS

KINDS OF MATERIALS AND SPIRITS

- 183.350 General.
183.351 Alcohol.
183.352 Brandy.

COMMENCEMENT OF OPERATIONS

- 183.353 Notice, Form 125.
183.354 Assignment of storekeeper-gaugers.
183.355 Examination of distillery.
183.356 Supervision of operations.

DISTILLING MATERIALS

- 183.357 Weighing materials received.
183.358 Storage of materials.
183.359 Supervision of material room.
183.360 Storekeeper-gauger's record of materials received.
183.361 Weighing materials used.
183.362 Storekeeper-gauger's record of materials used.
183.363 Distiller's material slips.
183.364 Storekeeper-gauger's verification.

YEASTING

- 183.365 Materials for yeast mash.
183.366 Materials for yeast culture.
183.367 Non-alcohol producing materials.

MASHING OPERATIONS

- 183.368 Distiller's notice of change in materials and strength of beer.
183.369 Non-fermentable materials.
183.370 Presence of storekeeper-gauger required.

FERMENTING

- 183.371 Restrictions removed.
183.372 Quantity of mash and beer determined.
183.373 Tests of beer and slop.

DISTILLATION

- 183.374 Continuous process required.
183.375 Gauging of unfinished spirits.

LOCKING OF DISTILLERY

- 183.376 When to be locked.
183.377 Keys of distillery locks.

TREATMENT OF SPIRITS IN COURSE OF DISTILLATION

- 183.378 Rectification.
183.379 Purifying or refining spirits.
183.380 Percolation through oak chips.
183.381 Samples before and after treating.
183.382 Disposition of substances used for treating spirits.

DEPOSIT OF SPIRITS IN RECEIVING CISTERN

- 183.383 Immediate deposit required.

COMPARISON OF ACTUAL YIELD WITH CALCULATED YIELD

- 183.384 Abnormal differences to be investigated.

SUPERVISION OF CISTERN ROOM

- 183.385 In charge of storekeeper-gauger.

SUBPART S—COLLECTION AND REMOVAL OF DISTILLATES, DISTILLED SPIRITS UNFIT FOR BEVERAGE PURPOSES, DISTILLED WATER, FUSEL OIL, AND CARBON DIOXIDE

COLLECTION, REMOVAL FOR DENATURATION AND/OR DESTRUCTION OF CERTAIN DISTILLATES AND VOLUNTARY DESTRUCTION OF SPIRITS UNFIT FOR BEVERAGE PURPOSES

- 183.390 General.
183.391 Collection of distillates.
183.392 Samples by distiller.
183.393 Aldehydes and fusel oil not to be mixed with spirits.

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- 183.394 Application.
183.395 Action by storekeeper-gauger.
183.396 Analysis of samples.
183.397 District supervisor's order to gauge.
183.398 Disapproval of application.
183.399 Distillates or spirits not meeting requirements for denaturation or destruction.
183.400 Gauge of distillate or spirits.
183.401 Destruction of distillates or spirits.
183.402 Release for denaturation.
183.403 Marking and branding of packages.
183.404 Removal in tank cars.
183.405 Report of shipment to denaturing plant.
183.406 Inspection at denaturing plant.
183.407 Regauge at denaturing plant.
183.408 Losses of distillates or spirits.
183.409 District supervisor's account.
183.410 Use for denaturation.
183.411 Storekeeper-gauger's records.
183.412 Distiller's records.

COLLECTION AND REMOVAL OF DISTILLED WATER

- 183.413 Collection.
183.414 Removal.
183.415 Marking of packages.
183.416 Supervision of removal.

COLLECTION AND REMOVAL OF FUSEL OIL

- 183.417 Collection.
183.418 Storage.
183.419 Washing and purifying.
183.420 Test tube.
183.421 Test.
183.422 Saturated salt solution.
183.423 Containers.
183.424 Supervision.
183.425 Record of removal.
183.426 Disposition of washwater.

RECOVERY AND REMOVAL OF CARBON DIOXIDE

- 183.427 Procedure.

SUBPART T—DISTILLED SPIRITS FOR REDISTILLATION

RECEIPTS FOR REDISTILLATION

- 183.435 General.
183.436 Special application for permission to receive spirits for redistillation.
183.437 Action by district supervisor.
183.438 Form 236.
183.439 Quantity to be determined at time of receipt.
183.440 Losses in transit of spirits received for redistillation.
183.441 Redistillation of spirits.
183.442 Deficiencies in redistillation.
183.443 Deposit in receiving cisterns.

REMOVALS FOR REDISTILLATION

- 183.444 Gauge of spirits.
183.445 Records.

SUBPART U—THE TAX ON DISTILLED SPIRITS

- 183.450 Rate of tax.
183.451 Attachment of tax.
183.452 Persons liable for tax.

LIEN FOR TAX ON DISTILLED SPIRITS

- 183.453 Tax to be first lien.
183.454 Assessments become lien.
183.455 Exemption from lien.
183.456 Extinction of lien.
183.457 Certificate of discharge of lien.

SUBPART V—SAMPLES OF DISTILLED SPIRITS

- 183.465 Unfinished spirits.
183.466 Finished spirits.
183.467 Application.
183.468 Approval of application.
183.469 Removal under supervision.
183.470 Label.
183.471 Office record.
183.472 Report of taxable samples.
183.473 Report of taxable samples, containers of less than one gallon.
183.474 Disposition of samples.

SUBPART W—TAX-PAYMENT, REMOVAL, AND TRANSFER OF DISTILLED SPIRITS FROM CISTERN ROOM

AUTHORIZED REMOVALS OF WHISKY

- Sec.
183.480 Transfers to internal revenue bonded warehouses.
183.481 Tax-payment.
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AUTHORIZED REMOVALS OF BRANDY

- 183.483 Transfers to internal revenue bonded warehouses.
183.484 Tax-payment.
183.485 Exports.
183.486 Redistillation.

AUTHORIZED REMOVALS OF RUM

- 183.487 Transfers to internal revenue bonded warehouses.
183.488 Transfers to distillery denaturing bonded warehouses.
183.489 Tax-payment.
183.490 Exports.
183.491 Redistillation.

AUTHORIZED REMOVALS OF GIN

- 183.492 Transfers to internal revenue bonded warehouses.
183.493 Tax-payment.
183.494 Exports.
183.495 Redistillation.

AUTHORIZED REMOVALS OF NEUTRAL SPIRITS

- 183.496 Transfers to internal revenue bonded warehouses.
183.497 Tax-payment.
183.498 Exports.
183.499 Redistillation.

AUTHORIZED REMOVALS OF SPIRITS—GRAIN, SPIRITS—CANE, SPIRITS—FRUIT, ETC.

- 183.500 Transfers to internal revenue bonded warehouses.
183.501 Tax-payment.
183.502 Exports.
183.503 Redistillation.

AUTHORIZED REMOVALS OF VODKA

- 183.504 Transfers to internal revenue bonded warehouses.
183.505 Redistillation.

CONTAINERS

- 183.506 Approved containers.

WOODEN PACKAGES CONTAINING METALLIC CANS

- 183.507 General.
183.508 Kind and construction of packages.
183.509 Notice by distiller.
183.510 Packages to be weighed before filling.
183.511 Filling of cans.
183.512 Marks and brands.
183.513 Deposit in warehouse.

DRAWING OFF, GAUGING AND REMOVAL OF SPIRITS

- 183.514 Drawing off spirits.
183.515 Gauging of spirits.
183.516 Time of removal from cistern room.
183.517 Weighing spirits removed by pipeline.
183.518 Testing tank scales.
183.519 Use of tank scales.
183.520 Pipeline removals.

ADDITION OF OAK CHIPS TO PACKAGES OF SPIRITS

- 183.521 Time of addition.
183.522 Addition to packages in warehouse.

MARKING, BRANDING AND STAMPING OF PACKAGES

- 183.523 General.
183.524 Marking of packages filled in cistern room.
183.525 Marks and brands illustrated.
183.526 Numbering of packages.

SUBPART LL—OFFICER'S RIGHT OF ENTRY AND EXAMINATION

Sec.

- 183.750 Entry of distillery or premises used in connection therewith.
 183.751 Authority to break up grounds or walls.
 183.752 Examination of worm tubs.
 183.753 Distillers to furnish assistance.

SUBPART MM—RULES FOR COMPUTING CAPACITY OF STILL

- 183.760 Pot or kettle stills.
 183.761 Charge chamber stills.
 183.762 Continuous stills.

AUTHORITY: §§ 183.1 to 183.762 issued under 53 Stat. 375; 26 U. S. C. 3176. Statutory provisions interpreted or applied are cited to the text in parentheses.

LAW OF MORE COMMON APPLICATION PERTAINING TO THE PRODUCTION OF DISTILLED SPIRITS (OTHER THAN ALCOHOL) AND THE REMOVAL THEREOF FROM THE DISTILLERY¹

§ 5 U. S. C. 22 DEPARTMENTAL REGULATIONS. The head of each department is authorized to prescribe regulations, not inconsistent with law, for the government of his department, the conduct of its officers and clerks, the distribution and performance of its business, and the custody, use, and preservation of the records, papers, and property appertaining to it.

26 U. S. C. 1650 WAR TAX RATES OF CERTAIN MISCELLANEOUS TAXES. In lieu of the rates of tax specified in such of the sections of this title as are set forth in the following table, the rates applicable with respect to the period beginning with the effective date of Title III of the Revenue Act of 1943 shall be the rates set forth under the heading "War Tax Rate":

Section	Description of tax	Old rate	War tax rate
2800(a) (1).	Distilled spirits.	\$6 per gallon.	\$9 per gallon.

26 U. S. C. 2800 TAX—(a) Rate.—(1) *Distilled spirits generally.* There shall be levied and collected on all distilled spirits in bond or produced in or imported into the United States an internal revenue tax at the rate of \$6.00 on each proof gallon or wine gallon when below proof and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon, to be paid by the distiller or importer when withdrawn from bond.

(A) *Payment of tax as to domestic spirits.* The tax on distilled spirits produced in the United States, to be paid upon withdrawal from bond, and the tax on rectified spirits produced in the United States, shall be paid by stamp, under such rules and regulations, permits, bonds, records, and returns, and with the use of such tax-stamp machines or other devices and apparatus, including but not limited to storage, gaging, and bottling tanks and pipe lines, as the Commissioner with the approval of the Secretary shall prescribe.

(B) *Penalties.* Whoever manufactures, procures, possesses, uses, or tampers with a tax-stamp machine which may be required under this section with intent to evade the internal-revenue tax imposed upon distilled spirits and rectified spirits, and whoever, with intent to defraud, makes, alters, simulates, or counterfeits any stamp of the character imprinted by such stamp machines, or who procures, possesses, uses, or sells any

forged, altered, counterfeited, or simulated tax stamp, or any plate, die, or device intended for use in forging, altering, counterfeiting, or simulating any such stamps, or who otherwise violates the provisions of this section, or the regulations issued pursuant thereto, shall pay a penalty of \$5,000 and shall be fined not more than \$10,000 or be imprisoned not more than five years, or both, and any machine, device, equipment, or materials used in violation of this section shall be forfeited to the United States and after condemnation shall be destroyed. But this provision shall not exclude any other penalty or forfeiture provided by law.

(2) *Products of distillation containing distilled spirits.* All products of distillation, by whatever name known, which contain distilled spirits or alcohol, on which the tax imposed by law has not been paid, shall be considered and taxed as distilled spirits.

(c) *Time of attachment.* The tax shall attach to distilled spirits, spirits, alcohol or alcoholic spirit, within the meaning of subsection (b) of section 2809 as soon as this substance is in existence as such, whether it be subsequently separated as pure or impure spirit, or be immediately, or at any subsequent time, transferred into any other substance, either in the process of original production or by any subsequent process.

(d) *Persons liable.* Every proprietor or possessor of, and every person in any manner interested in, the use of, any still, distillery, or distilling apparatus, shall be jointly and severally liable for the taxes imposed by law on the distilled spirits produced therefrom.

(e) *Lien.—(1) Property subject to.* The tax shall be a first lien on the spirits distilled, the distillery used for distilling the same, the stills, vessels, fixtures, and tools therein, the lot or tract of land whereon the said distillery is situated, and on any building thereon from the time said spirits are in existence as such until (except as provided in paragraph (3)), the said tax is paid.

(2) *Exception during term of bonds.* No lien shall attach to any lot or tract of land, distillery, building, or distilling apparatus, under the provisions of this subsection, by reason of distilling done during any period included within the term of any bond taken under the provisions of section 2815 (b) (1) (C).

(3) *Extinguishment.* Any lien under paragraph (1) on any land or any building thereon shall be held to be extinguished, if (1) such land and building are no longer used for distillery purposes, and (2) there is no outstanding liability for taxes or penalties imposed by law on the distilled spirits produced therein, and (3) no litigation is pending in respect of any such tax or penalty.

(4) *Certificate of discharge.* Any person claiming any interest in any such land or building may apply to the collector for a duly acknowledged certificate to the effect that such lien is discharged and, if the Commissioner determines that any such lien is extinguished, the collector shall issue such certificate, and any such certificate may be recorded.

26 U. S. C. 2802 STAMPS FOR DISTILLED SPIRITS—(a) *Issue for restamping.* The Commissioner may, under regulations prescribed by him with the approval of the Secretary, issue stamps for restamping packages of distilled spirits, which have been duly stamped but from which the stamps have been lost or destroyed by unavoidable accident.

26 U. S. C. 2806 PENALTIES AND FORFEITURES—(a) *Creation of fictitious proof.—(1) Penalty.* Every person who adds or causes to be added any ingredient or substance to any distilled spirits before the tax is paid thereon, for the purpose of creating a fictitious proof, shall be fined not less than \$100

nor more than \$1,000 for each cask or package so adulterated, and imprisoned not less than three months nor more than two years; and

(2) *Forfeiture.* Every such cask or package, with its contents, shall be forfeited to the United States.

(b) *Unlawful affixing, canceling, or issue of stamps by officer.—(1) Penalty.* Whenever any revenue officer affixes or cancels, or causes or permits to be affixed or canceled, any stamp relating to distilled spirits provided for by law, in any other manner or in any other place, or issues the same to any other person than as provided by law, or by regulation made in pursuance thereof, or knowingly affixes, or permits to be affixed, any such stamp to any cask or package of spirits of which the whole or any part has been distilled, rectified, compounded, removed, or sold, in violation of law, or which has in any manner escaped payment of tax due thereon, he shall, for every such offense, be fined not less than \$500 nor more than \$3,000, and be imprisoned for not less than six months nor more than three years.

(2) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

(c) *Forfeiture of tax-paid distilled spirits remaining on distillery premises.* No distilled spirits on which the tax has been paid shall be stored or allowed to remain on any distillery premises under the penalty of a forfeiture of all spirits so found.

(d) *Forfeiture of distilled spirits in unstamped casks or packages.* All distilled spirits found in any cask or package containing five gallons or more, without having thereon each mark and stamp required therefor by law, shall be forfeited to the United States.

(e) *Evasion of tax, penalty.—*Whenever any person evades, or attempts to evade, the payment of the tax on any distilled spirits, in any manner whatever, he shall forfeit and pay double the amount of the tax so evaded or attempted to be evaded.

(f) *Tax fraud by distiller.* Whenever any person engaged in carrying on the business of a distiller defrauds or attempts to defraud the United States of the tax on the spirits distilled by him, or of any part thereof, he—

(1) *Forfeiture.* Shall forfeit the distillery and distilling apparatus used by him, and all distilled spirits and all raw materials for the production of distilled spirits found in the distillery and on the distillery premises, and—

(2) *Penalty.* Shall be fined not less than \$500 nor more than \$5,000, and be imprisoned not less than six months nor more than three years.

No discontinuance or nolle prosequi of any prosecution under this subsection shall be allowed without the permission in writing of the Attorney General.

(g) *Offenses not specifically covered.* If any distiller, rectifier, or wholesale liquor dealer, shall knowingly or wilfully omit, neglect or refuse to do or cause to be done any of the things required by law in the carrying on or conducting of his business, or shall do anything by this title prohibited, if there be no specific penalty or punishment imposed by any other section of this title for the neglecting, omitting or refusing to do, or for the doing or causing to be done the thing required or prohibited, he shall pay a penalty of \$1,000; and all distilled spirits or liquors owned by him or in which he has any interest as owner, shall be forfeited to the United States.

26 U. S. C. 2808 INSTRUMENTS TO PREVENT AND DETECT FRAUD—(a) *Power of the commissioner.* For the prevention and detection of frauds by distillers of spirits, the Commissioner may prescribe for use such hydrometers, saccharometers, weighing and gauging instruments, or other means for ascertaining

¹ The sections of the United States Code are numbered identically with corresponding sections of the Internal Revenue Code.

the quantity, gravity, and producing capacity of any mash, wort, or beer used, or to be used, in the production of distilled spirits, and the strength and quantity of spirits subject to tax, as he may deem necessary; and he may prescribe rules and regulations to secure a uniform and correct system of inspection, weighing, marking, and gauging of spirits.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2809 **DEFINITIONS**—(a) *Distiller.* Every person who produces distilled spirits, or who brews or makes mash, wort, or wash, fit for distillation or for the production of spirits, or who, by any process of evaporation, separates alcoholic spirit from any fermented substance or who, making or keeping mash, wort, or wash, has also in his possession or use a still, shall be regarded as a distiller.

(b) *Distilled spirits*—(1) *General definition.* Distilled spirits, spirits, alcohol, and alcoholic spirits within the true intent and meaning of this chapter, is that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, which is commonly produced by the fermentation of grain, starch, molasses, or sugar, including all dilutions and mixtures of this substance.

(c) *Proof spirits.* Proof spirits shall be held to be that alcoholic liquor which contains one-half its volume of alcohol of a specific gravity of seven thousand nine hundred and thirty-nine ten-thousandths (0.7939) at sixty degrees Fahrenheit.

26 U. S. C. 2810 **REGISTRY OF STILLS**—(a) *Requirement.* Every person having in his possession or custody, or under his control, any still or distilling apparatus set up, shall register the same with the collector of the district in which it is, by subscribing and filing with him duplicate statements, in writing, setting forth the particular place where such still or distilling apparatus is set up, the kind of still and its cubic contents, the owner thereof, his place of residence, and the purpose for which said still or distilling apparatus has been or is intended to be used; one of which statements shall be retained and preserved by the collector, and the other transmitted by him to the Commissioner. Stills and distilling apparatus shall be registered immediately upon their being set up.

Every still or distilling apparatus not so registered, together with all personal property in the possession or custody, or under the control of such person, and found in the building, or in any yard or inclosure connected with the building in which the same may be set up, shall be forfeited.

And every person having in his possession or custody, or under his control, any still or distilling apparatus set up which is not so registered, shall pay a penalty of \$500, and shall be fined not less than \$100, nor more than \$1,000, and imprisoned for not less than one month, nor more than two years.

Stills and distilling apparatus set up at refineries for the refining of crude petroleum or the production of petroleum products and not used in the manufacture of distilled spirits are not required to be registered under this section.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2812 **NOTICE OF BUSINESS OF DISTILLER OR RECTIFIER**—(a) *Requirements.* Every person engaged in, or intending to be engaged in, the business of a distiller or rectifier, shall give notice in writing, subscribed by him, to the collector of the district wherein such business is to be carried on, stating his name and residence, and if a company or firm, the name and residence of each member thereof, the name and resi-

dence of every person interested or to be interested in the business, the precise place where said business is to be carried on, and whether of distilling or rectifying; and if such business is carried on in a city, the residence and place of business shall be indicated by the name of the street and number of the building. In case of a distiller, the notice shall also state the kind of stills and the cubic contents thereof, the number and kind of boilers, the number of mash tubs and fermenting tubs, the cubic contents of each tub, the number of receiving cisterns, the cubic contents of each cistern, * * * the estimated quantity of distilled spirits which the apparatus is capable of distilling every twenty-four hours, a particular description of the lot or tract of land on which the distillery is situated, and of the buildings thereon, including their size, material, and construction; and that said distillery premises are not within six hundred feet (or the distance permitted by the Secretary pursuant to law), in a direct line, of any premises authorized to be used for rectifying or refining distilled spirits by any process.

In case of any change in the location, form, capacity, ownership, agency, superintendency, or in the persons interested in the business of such distillery or rectifying establishment, * * * notice thereof, in writing, shall be given to the said collector or proper deputy collector, of the district within twenty-four hours after such change; and any deputy collector receiving such notice shall immediately transmit the same to the collector of the district. Every notice required by this section shall be in such form, and shall contain such additional particulars, as the Commissioner may, from time to time, prescribe.

Every person who fails or refuses to give such notice shall pay a penalty of \$1,000, and shall be fined not less than \$100 nor more than \$2,000; and every person who gives a false or fraudulent notice shall, in addition to such penalty or fine, be imprisoned not less than six months nor more than two years.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2814 **DISTILLER'S BOND**—(a) *Form and approval*—(1) *In general.* Every person intending to commence or to continue the business of a distiller shall, on filing with the collector his notice of such intention, and before proceeding with such business, and on the 1st day of May of each succeeding year, execute a bond in the form prescribed by the Commissioner, conditioned that he shall faithfully comply with all the provisions of law relating to the duties and business of distillers, and shall pay all penalties incurred or fines imposed on him for a violation of any of the said provisions; and that he shall not suffer the lot or tract of land on which the distillery stands, or any part thereof, or any of the distilling apparatus, to be incumbered by mortgage, judgment, or other lien, during the time in which he shall carry on said business. Said bond shall be with at least two sureties, approved by the collector of the district, and for a penal sum not less than the amount of tax on the spirits that can be distilled in his distillery during a period of fifteen days. But in no case shall the bond exceed the sum of \$100,000.

The collector may refuse to approve said bond when, in his judgment, the situation of the distillery is such as would enable the distiller to defraud the United States; and in case of such refusal the distiller may appeal to the Commissioner, whose decision in the matter shall be final. A new bond shall be required in case of the death, insolvency, or removal of either of the sureties, and may be required in any other contin-

gency at the discretion of the collector or Commissioner.

Every person who fails or refuses to give the bond hereinbefore required, or to renew the same, or who gives any false, forged, or fraudulent bond, shall forfeit the distillery, distilling apparatus, and all real estate and premises connected therewith, and shall be fined not less than \$500 nor more than \$5,000, and imprisoned not less than six months nor more than two years.

(2) *When exempt from survey requirements.* Whenever, under authority of law, the Secretary shall relieve a distiller from the survey requirements of section 2817, he may likewise by regulation fix the penal sum of the distiller's bond, but in no case shall the amount of the minimum bond be less than \$5,000 nor the amount of the maximum bond greater than \$100,000.

(b) *Cross references.* * * *

(2) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2815 **CONDITIONS OF APPROVAL OF DISTILLER'S BOND**—(a) *General.* No collector shall approve the bond of any distiller until all the requirements of the law and all regulations made by the Commissioner in relation to distilleries, in pursuance thereof, have been complied with.

Every collector who violates this provision shall forfeit and pay \$2,000, and be dismissed from office.

(b) *Ownership of land or consent of owner*—(1) *Requirements.* No bond of a distiller shall be approved unless—

(A) The distiller is the owner in fee, unencumbered by any mortgage, judgment, or other lien, of the lot or tract of land on which the distillery is situated; or

(B) The distiller files with the officer designated for the purpose by the Commissioner, in connection with his notice, the written consent of the owner of the fee, and of any mortgage, judgment-creditor, or other person having a lien thereon, duly acknowledged, that the premises may be used for the purpose of distilling spirits, subject to the provisions of law, and expressly stipulating that the lien of the United States for taxes and penalties shall have priority of such mortgage, judgment, or other encumbrance, and that in the case of the forfeiture of the distillery premises, or any part thereof, the title to the same shall vest in the United States, discharged from such mortgage, judgment, or other encumbrance; or, if consent as required under this paragraph cannot be obtained,

(C) The distiller, with the approval of the Commissioner, files with the officer designated by the Commissioner a bond, approved by the Commissioner, in the penal sum equal to the appraised value of the lot or tract of land on which the distillery is situated, the distillery, the buildings, and the distilling apparatus. Such value shall be determined, and such bond shall be executed, in such form and with such sureties, and filed with the officer designated by the Commissioner, under such regulations as the Secretary shall prescribe.

(D) In case of any distillery sold at judicial or other sale in favor of the United States, a bond may be taken at the discretion of the Commissioner, in lieu of the written consent required by this section, and the person giving such bond may be allowed to operate such distillery during the existence of the right of redemption from such sale on complying with all the other provisions of law.

(2) *Cross references*—(A) *Distilleries erected prior to July 20, 1868.* For distilleries erected prior to July 20, 1868, see section 3180.

(B) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

(c) *Approval as condition to commencing business.* No individual, firm, partnership, corporation, or association, intending to commence or to continue the business of a dis-

tiller, rectifier, brewer, or winemaker, shall commence or continue the business of a distiller, rectifier, brewer, or winemaker until all bonds in respect of such a business, required by any provision of law, have been approved by the Commissioner or such other officer of the Bureau of Internal Revenue as the Commissioner, with the approval of the Secretary, may designate.

(d) *Disapproval.* The Commissioner or the designated officer may disapprove any such bond or bonds if the individual, firm, partnership, corporation or association giving the same, or owning, controlling, or actively participating in the management of the business of the individual or firm, partnership, corporation, or association giving the same, shall have been previously convicted, in a court of competent jurisdiction, of (1) any fraudulent noncompliance with any provision of any law of the United States if such provision related to internal revenue or customs taxation of distilled spirits, wines, or fermented malt liquors, or if such an offense shall have been compromised with the individual, firm, partnership, corporation, or association upon payment of penalties or otherwise, or (2) any felony under a law of any State, Territory, or the District of Columbia, or the United States, prohibiting the manufacture, sale, importation, or transportation of distilled spirits, wine, fermented malt liquor, or other intoxicating liquor.

(e) *Appeal from disapproval.* In case the disapproval is by any officer other than the Commissioner, the individual, firm, partnership, corporation, or association giving the bond may appeal from such disapproval to the Commissioner. The disapproval of the Commissioner in any matter under this section shall be final.

(f) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2816 *PLAN OF DISTILLERY*—(a) *Requirements.* Except as provided in section 2824 (a), every distiller and person intending to engage in the business of a distiller shall, previous to the approval of his bond, cause to be made, under the direction of the collector of the district, an accurate plan and description, in triplicate, of the distillery and distilling apparatus, distinctly showing the location of every still, boiler, doubler, worm tub, and receiving cistern, the course and construction of all fixed pipes used or to be used in the distillery, and of every branch and every cock or joint thereof, and of every valve therein, together with every place, vessel, tub, or utensil from and to which any such pipe leads, or with which it communicates; also the number and location and cubic contents of every still, mash tub, and fermenting tub, the cubic contents of every receiving cistern, and the color of each fixed pipe, as required in this chapter. One copy of said plan and description shall be kept displayed in some conspicuous place in the distillery, and two copies shall be furnished to the collector of the district, one of which shall be kept by him, and the other transmitted to the Commissioner. The accuracy of every such plan and description shall be verified by the collector, the draughtsman, and the distiller; and no alteration shall be made in such distillery without the consent, in writing, of the collector. Any alteration so made shall be shown on the original, or by a supplemental plan and description, and a reference thereto noted on the original, as the collector may direct; and any supplemental plan and description shall be executed and preserved in the same manner as the original.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2817 *SURVEY OF DISTILLERY*—(a) *Requirements.* * * *

(b) *Waiver of requirements.* The Secretary in the case of any distillery may, under regulations, waive such of the requirements

of this section as he determines may be waived without danger to the revenue. Whenever the Secretary, by authority of this subsection, waives any or all of the requirements of this section, he may, by regulation, relieve the distiller from such requirements of sections 2840 (a), 2846 (a), 2847 (a), 2849, 2850 (a), and 2851 (a), and of such other provisions of law relating or incidental to survey requirements, as the Secretary determines may be waived without danger to the revenue.

(c) *Cross references.* * * *

(2) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2818 *NOTICE OF MANUFACTURE OF AND PERMIT TO SET UP STILL*—(a) *Requirement.* Any person who manufactures any still, boiler, or other vessel to be used for the purpose of distilling, shall, before the same is removed from the place of manufacture, notify in writing the collector of the district in which such still, boiler, or other vessel is to be used or set up, by whom it is to be used, its capacity, and the time when the same is to be removed from the place of manufacture; and no such still, boiler, or other vessel shall be set up without the permit in writing of the said collector for that purpose; and

(b) *Penalty for setting up still without permit.* Any person who sets up any such still, boiler, or other vessel, without first obtaining a permit from the said collector of the district in which such still, boiler, or other vessel is intended to be used, or who fails to give such notice, shall pay in either case the sum of \$500, and shall forfeit the distilling apparatus thus removed or set up in violation of law.

(c) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2819 *PREMISES PROHIBITED FOR DISTILLING.* No person shall use any still, boiler, or other vessel, for the purpose of distilling, in any dwelling house, or in any shed, yard, or inclosure connected with any dwelling house, or on board of any vessel or boat, or in any building, or on any premises where beer, lager beer, ale, porter, or other fermented liquors, vinegar, or ether, are manufactured or produced, or where sugars or sirups are refined, or where liquors of any description are retailed, or where any other business is carried on; or within six hundred feet in a direct line of any premises authorized to be used for rectifying, except that the Secretary is authorized to permit such use for distilling on premises at such lesser distance than six hundred feet as he prescribes, in any case in which he deems that such permission may be granted without danger to the revenue; and every person who does any of the acts prohibited by this section, or aids or assists therein, or causes or procures the same to be done, shall be fined \$1,000 and imprisoned for not less than six months nor more than two years, in the discretion of the court, for each such offense: *Provided,* That saleratus may be manufactured, or meal or flour ground from grain, in any building or on any premises where spirits are distilled; but such meal or flour shall be used only for distillation on the premises: *Provided further,* That any boiler used in generating steam or heating water to be used in any distillery, may be located in any other building or on any other premises to be connected with such still or boiling tubs, by suitable pipes or other apparatus, or the steam from such boiler in the distillery may be conveyed to other premises to be used for manufacturing or other purposes.

26 U. S. C. 2820 *RECEIVING CISTERNS IN DISTILLERIES*—(a) *Requirements.* Except as provided in section 2824, the owner, agent, or superintendent of any distillery established as hereinbefore provided, shall erect, in a room or building to be provided and used

for that purpose, and for no other, and to be constructed in the manner to be prescribed by the Commissioner, two or more receiving cisterns, each to be at least of sufficient capacity to hold all the spirits distilled during the day of twenty-four hours, into which shall be conveyed all the spirits produced in said distillery; and each of said cisterns shall be so constructed as to leave an open space of at least three feet between the top thereof and the floor or roof above, and of not less than eighteen inches between the bottom thereof and the floor below, and shall be so situated that the officer can pass around the same, and shall be connected with the outlet of the worm or condenser by suitable pipes or other apparatus, so constructed as always to be exposed to the view of the officer, and so connected and constructed as to prevent the abstraction of spirits while passing from the outlet of the worm or condenser back to the still or doubler, or forward to the receiving cistern. Such cisterns and the room in which they are contained shall be in charge and under the lock and seal of the storekeeper-gauger designated for that duty; and all locks and seals required by law shall be provided by the Commissioner, at the expense of the United States; and the keys shall be in charge of the collector or such storekeeper-gauger as he may designate. On the third day after the spirits are conveyed into such cistern they shall be drawn off into casks, under the supervision of such storekeeper-gauger and be removed directly to the distillery warehouse; but on special application to the collector by the owner, agent, or superintendent of any distillery, the spirits may be drawn off from said cisterns, under the supervision of the storekeeper-gauger, at any time previous to the third day.

Whenever, under authority of law, the Secretary shall relieve a distiller from the survey requirements, he may, by regulation, require the distiller to provide such receiving cisterns, tanks, or such other equipment as the Secretary shall deem proper in order to protect the revenue.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2821 *PENALTY FOR BREAKING LOCKS OR GAINING ACCESS TO CISTERN ROOM OR BUILDING.* Every person who destroys, breaks, injures, or tampers with any lock or seal which may be placed on any cistern room or building by the duly authorized officers of the revenue, or opens said lock or seal, or the door to said cistern room or building, or in any manner gains access to the contents therein, in the absence of the proper officer, shall be fined not less than \$500 nor more than \$5,000, and imprisoned not less than one year nor more than three years.

26 U. S. C. 2822 *REQUIREMENTS AS TO FURNACES, TUBS, DOUBLERS, WORM TANKS, AND FIXED PIPES*—(a) *Requirements.* The door of the furnace of every still or boiler used in any distillery shall be so constructed that it may be securely fastened and locked. The fermenting tubs shall be so placed as to be easily accessible to any revenue officer, and each tub shall have distinctly painted thereon in oil colors its cubic contents in gallons and the number of the tub. There shall be a clear space of not less than one foot around every wood still, and not less than two feet around every doubler and worm tank. The doubler and worm tanks shall be elevated not less than one foot from the floor; and every fixed pipe to be used by the distiller, except for conveyance of water, or of spent mash or beer only, shall be so fixed and placed as to be capable of being examined by the officer for the whole of its length or course, and shall be painted, and kept painted, as follows, that is to say: every pipe for the conveyance of mash or beer shall be painted of a red color; every pipe for the conveyance of low-wines back into the still or doubler shall be painted blue; every pipe for the convey-

ance of spirits shall be painted black, and every pipe for the conveyance of water shall be painted white. Whenever any fixed pipe is used by any distiller which is not painted or kept painted as herein directed, or which is painted otherwise than as herein directed, he shall forfeit the sum of \$1,000.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2823 CHANGES IN APPARATUS AND FASTENINGS—(a) *Power of Commissioner.* The Commissioner is authorized to order and require such changes of or additions to distilling apparatus, connecting pipes, pumps, or cisterns, or any machinery connected with or used in or on the distillery premises, or may require to be put on any of the stills, tubs, cisterns, pipes, or other vessels, such fastenings, locks, or seals as he may deem necessary.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2826 KEEPING DISTILLERY ACCESSIBLE—(a) *Requirements.* No fence or wall of a height greater than five feet shall be erected or maintained around the premises of any distillery, so as to prevent easy and immediate access to such distillery, but the Secretary may authorize the construction and maintenance of a fence or wall of such greater height than five feet as he shall prescribe in any case in which in his opinion such higher fence or wall is necessary to give adequate protection from trespassers. And every distiller shall furnish to the collector of the district as many keys of the gates and doors of the distillery as may be required by the collector, from time to time, for any revenue officer or other person who may be authorized to make survey or inspection of the premises, or of the contents thereof; and said distillery shall be kept always accessible to any officer or other person having any such key. Every person who violates any of the provisions of this subsection by negligence or refusal, or otherwise, shall pay a penalty of \$500.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2827 ENTRY AND EXAMINATION OF DISTILLERY—(a) *Power of revenue officers.* It shall be lawful for any revenue officer at all times, as well by night as by day, to enter into any distillery or building or place used for the business of distilling, or used in connection therewith for storage or other purposes, and to examine, gauge, measure, and take an account of every still or other vessel or utensil of any kind, and of all low-wines, and of the quantity and gravity of all mash, wort, or beer, and of all yeast, or other compositions for exciting or producing fermentation in any mash or beer, of all spirits and of all materials for making or distilling spirits, which may be in any such distillery or premises, or in possession of the distiller.

And whenever any internal revenue officer, or any person called by him to his aid, is hindered, obstructed, or prevented by any distiller or by any workman, or other person acting for such distiller, or in his employ, from entering into any such distillery or building or place as aforesaid; or any such officer is by the distiller, or his workman, or any person in his employ, prevented or hindered from, or opposed, or obstructed, or molested in the performance of his duty under the internal revenue laws, in any respect, the distiller shall forfeit the sum of not exceeding \$1,000.

And whenever any officer, having demanded admittance into a distillery or distillery premises, and having declared his name and office, is not admitted into such distillery, or premises by the distiller or other person having charge thereof, it shall be lawful for such officer at all times, as well by night as by day, to break open by force any of the doors or windows, or to break through

any of the walls of such distillery or premises necessary to be broken open or through, to enable him to enter the said distillery or premises; and the distiller shall forfeit the sum of not exceeding \$1,000.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2828 DISTILLERS AND RECTIFIERS TO FURNISH FACILITIES AND GIVE ASSISTANCE FOR EXAMINATION OF PREMISES—(a) *Power of revenue officers.* On the demand of any internal revenue officer or agent, every distiller or rectifier shall furnish strong, safe, and convenient ladders of sufficient length to enable the officer or agent to examine and gauge any vessel or utensil in such distillery or premises; and shall, at all times when required, supply all assistance, lights, ladders, tools, staging, or other things necessary for inspecting the premises, stock, tools, and apparatus belonging to such person, and shall open all doors, and open for examination all boxes, packages, and all casks, barrels, and other vessels not under the control of the revenue officer in charge, under a penalty of \$500 for every refusal or neglect so to do.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2829 INSTALLATION OF METERS, TANKS, AND OTHER APPARATUS—(a) *Power of the Commissioner.* The Commissioner, with the approval of the Secretary, is authorized to require at distilleries, breweries, rectifying houses, and wherever else in his judgment such action may be deemed advisable, the installation of meters, tanks, pipes, or any other apparatus for the purpose of protecting the revenue, and such meters, tanks, and pipes and all necessary labor incident thereto shall be at the expense of the person on whose premises the installation is required. Any such person refusing or neglecting to install such apparatus when so required by the Commissioner shall not be permitted to conduct business on such premises.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2830 OFFICER'S AUTHORITY TO BREAK UP GROUNDS OR WALLS—(a) *Power of revenue agent.* It shall be lawful for any revenue officer, and any person acting in his aid, to break up the ground on any part of a distillery, or premises of a distiller or rectifier, or any ground adjoining or near to such distillery or premises, or any wall or partition thereof, or belonging thereto, or other place, to search for any pipe, cock, private conveyance, or utensil; and, upon finding any such pipe or conveyance leading therefrom or thereto, to break up any ground, house, wall, or other place through or into which such pipe or other conveyance leads, and to break or cut away such pipe or other conveyance, and turn any cock, or to examine whether such pipe or other conveyance conveys or conceals any mash, wort, or beer, or other liquor, which may be used for the distillation of low-wines or spirits, from the sight or view of the officer, so as to prevent or hinder him from taking a true account thereof.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2831 SIGNS OF DISTILLERS, RECTIFIERS, AND WHOLESALE LIQUOR DEALERS. Every person engaged in distilling or rectifying spirits, and every wholesale liquor dealer, shall place and keep conspicuously on the outside of the place of such business a sign, exhibiting in plain and legible letters, not less than three inches in length, painted in oil-colors or glazed, and of a proper and proportionate width, the name or firm of the distiller, rectifier, or wholesale dealer, with the words: "Registered distillery," "rectifier of spirits," or "wholesale liquor dealer," as the case may be. Every person who violates the foregoing provision by negligence or re-

fusal, or otherwise, shall pay a penalty of \$500.

And every person, other than a rectifier or wholesale liquor dealer who has paid the special tax, or a distiller who has given bond as required by law, who puts up or keeps up the sign required by this section, or any sign indicating that he may lawfully carry on the business of a distiller, rectifier, or wholesale liquor dealer, shall forfeit and pay \$1,000, and shall be imprisoned not less than one month nor more than six months. And every person who works in any distillery, rectifying establishment, or wholesale liquor store, on which no sign is placed and kept, as hereinbefore provided; and every person who knowingly receives at, carries or conveys any distilled spirits to or from, any such distillery, rectifying establishment, warehouse, or store, or who knowingly carries and delivers any grain, molasses, or other raw material to any distillery on which such sign is not placed and kept, shall forfeit all horses, carts, drays, wagons, or other vehicle or animal used in carrying or conveying such property aforesaid, and shall be fined not less than \$100 nor more than \$1,000, or be imprisoned not less than one month nor more than six months.

26 U. S. C. 2832 CONDITIONS PRECEDENT TO CARRYING ON BUSINESS OF DISTILLING. It shall not be lawful for any distiller to commence the business of distilling, until he has given the bond required by law, and complied with the provisions of law relating to the registration * * * of distilleries, and the arrangement and construction of distilleries and the premises connected therewith; nor shall it be lawful for any person to engage in the business of distilling on any premises distant less than six hundred feet in a direct line from any premises used for rectifying; nor shall the processes of distillation and rectification both be carried on within the distance of six hundred feet in a direct line; except that the Secretary is authorized to permit such business of distilling or process of distillation to be carried on at such lesser distance than six hundred feet as he prescribes, in any case in which he deems that such permission may be granted without danger to the revenue.

26 U. S. C. 2833 DISTILLING WITHOUT GIVING BOND—(a) *Penalty and forfeiture.* Any person who shall carry on the business of a distiller without having given bond as required by law, or who shall engage in or carry on the business of a distiller with intent to defraud the United States of the tax on the spirits distilled by him, or any part thereof, shall, for every such offense, be fined not less than \$100 nor more than \$5,000 and imprisoned for not less than thirty days nor more than two years. And all distilled spirits or wines, and all stills or other apparatus, fit or intended to be used for the distillation or rectification of spirits, or for the compounding of liquors, owned by such person, wherever found, and all distilled spirits or wines and personal property found in the distillery or in any building, room, yard, or inclosure connected therewith, and used with or constituting a part of the premises, and all the right, title, and interest of such person in the lot or tract of land on which such distillery is situated, and all right, title, and interest therein of every person who knowingly has suffered or permitted the business of a distiller to be there carried on, or has connived at the same; and all personal property owned by or in possession of any person who has permitted or suffered any building, yard, or inclosure, or any part thereof, to be used for purposes of ingress or egress to or from such distillery, which shall be found in any such building, yard, or inclosure, and all the right, title, and interest of every person in any premises used for ingress or egress to or from such distillery, who has knowingly suffered or permitted such premises to be used for such

ingress or egress, shall be forfeited to the United States.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2834 MASH, WORT, AND VINEGAR; VINEGAR FACTORIES. No mash, wort, or wash, fit for distillation or for the production of spirits or alcohol, shall be made or fermented in any building or on any premises other than a distillery duly authorized according to law; and no mash, wort, or wash so made and fermented shall be sold or removed from any distillery before being distilled; and no person, other than an authorized distiller, shall, by distillation, or by any other process, separate the alcoholic spirits from any fermented mash, wort, or wash; and no person shall use spirits or alcohol in manufacturing vinegar or any other article, or in any process of manufacture whatever, unless the spirits or alcohol so used shall have been produced in an authorized distillery and (except in the case of vinegar) the tax thereon paid. Every person who violates any provision of this section shall be fined for each offense not less than \$500 nor more than \$5,000, and be imprisoned not less than six months nor more than two years. Nothing in this section shall be construed to apply to fermented liquors, or to fermented liquids used for the manufacture of vinegar exclusively. * * *

Nor shall any vinegar factory, for the manufacture of vinegar as aforesaid, be permitted, except as provided in section 2835, within six hundred feet of any distillery or rectifying house. But it shall be lawful for manufacturers of vinegar to separate, by a vaporizing process, the alcoholic property from the mash produced by them, and condense the same by introducing it into the water or other liquid used in making vinegar. * * *

26 U. S. C. 2835 VINEGAR FACTORIES OPERATED PRIOR TO MARCH 1, 1879—(a) *Regulations.* Any vinegar factory for the manufacture of vinegar, established and operated as a vinegar factory prior to March 1, 1879, may be operated for the manufacture of vinegar by the use of alcoholic vapor within such distance less than six hundred feet of any distillery or rectifying house under such regulations as the Commissioner may prescribe with the approval of the Secretary.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2836 PROHIBITED HOURS FOR DISTILLING. Except as provided in section 2837, no malt, corn, grain, or other material shall be mashed, nor any mash, wort, or beer brewed or made, nor any still used by a distiller, at any time between the hour of eleven in the afternoon of any Saturday and the hour of one in the forenoon of the next succeeding Monday; and every person who violates the provisions of this section shall be liable to a penalty of \$1,000.

26 U. S. C. 2838 PENALTY FOR USING MATERIAL OR REMOVING SPIRITS IN ABSENCE OF STOREKEEPER-GAUGER. Every distiller or person employed in any distillery who, in the absence of the storekeeper-gauger, or person designated to act as storekeeper-gauger, uses, or causes or permits to be used, any material for the purpose of making mash, wort, or beer, or for the production of spirits, or removes any spirits, shall forfeit and pay double the amount of taxes on the spirits so produced, distilled, or removed, and in addition thereto be liable to a penalty of \$1,000.

26 U. S. C. 2839 DRAWING OFF WATER AND CLEANSING WORM TUBS—(a) *Requirements.* Whenever any officer or internal revenue agent requires the water contained in any worm tub in a distillery, at any time when the still is not at work, to be drawn off, and the tub and worm cleansed, the water shall

be drawn off by the distiller, or his workmen, accordingly; and the water shall be kept and continued out of such worm tub for the period of two hours, or until the officer or agent has finished his examination thereof. For any refusal or neglect to comply with any provision of this section, the distiller shall forfeit the sum of not exceeding \$1,000; and it shall be lawful for the officer or agent to draw off such water, or any portion of it, and to keep the same drawn off for so long a time as he shall think necessary.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2841 DISTILLER'S BOOKS—(a) *Entries—(1) Requirements.* Every person who makes or distills spirits, or owns any still, boiler, or other vessel used for the purpose of distilling spirits or who has such still, boiler, or other vessel so used under his superintendence, either as agent or owner, or who uses any such still, boiler, or other vessel, shall keep a record, in the form and manner prescribed by the Commissioner, of the receipt on the distillery premises, and the use thereon, of materials intended for use in the distillation of spirits, and of the number of gallons of spirits distilled, the number of gallons placed in the warehouse, and the proof thereof, the number of gallons sold or removed with the proof thereof, and the name, place of business and residence of the person to whom sold.

(2) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

(b) *Preservation and inspection.* The books of every distiller hereinbefore required shall always be kept at the distillery and be always open to the inspection of any revenue officer, and, when filled up, shall be preserved by the distiller for a period of not less than two years thereafter, and whenever required shall be produced for the inspection of any revenue officer.

(c) *Penalty and forfeiture—(1) Omitting entries or making false entries.* Whenever any false entry is made in, or any entry required to be made is omitted from, either of the said books mentioned in the two preceding subsections, with intent to defraud or to conceal from the revenue officers any fact or particular required to be stated and entered in either of said books, or to mislead in reference thereto; or any distiller as aforesaid omits or refuses to provide either of said books, or cancels, obliterates, or destroys any part of either of such books, or any entry therein, with intent to defraud, or permits the same to be done, or such books, or either of them, are not produced when required by any revenue officer, the distillery, distilling apparatus, and the lot or tract of land on which it stands, and all personal property on said premises used in the business there carried on, shall be forfeited to the United States. And every person who makes such false entry, or omits to make any entry hereinbefore required to be made, with intent aforesaid, or who causes or procures the same to be done, or fraudulently cancels, obliterates, or destroys any part of said books, or any entry therein, or willfully fails to produce such books, or either of them, shall be fined not less than \$500, nor more than \$5,000, and imprisoned not less than six months, nor more than two years.

(2) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2842 PENALTY FOR USING FALSE WEIGHTS AND MEASURES. Every person who knowingly uses any false weights or measures in ascertaining, weighing, or measuring the quantities of grain, meal, or vegetable materials, molasses, beer, or other substances to be used for distillation, shall be fined not less than \$500 nor more than \$5,000, and imprisoned not less than one year nor more than three years.

26 U. S. C. 2843 PENALTY FOR USING UNREGISTERED MATERIALS. Any person who uses any molasses, beer, or other substance, whether fermented on the premises or elsewhere, for the purpose of producing spirits, before an account of the same is registered in the proper book provided for that purpose, shall forfeit and pay the sum of \$1,000 for each offense so committed.

26 U. S. C. 2844 MONTHLY PRODUCTION RETURN OF DISTILLER—(a) *Requirement.* On the 1st day of each month, or within five days thereafter, every distiller shall render to the collector of the district an account in duplicate, taken from his books, stating the quantity and kind of materials used for the production of spirits each day, and the number of proof gallons of spirits produced and placed in warehouse. And the distiller or the principal manager of the distillery shall make and subscribe the following oath, to be attached to said return:

"I, _____, distiller (or principal manager, as the case may be) of the distillery at _____, do solemnly swear that, since the date of the last return of the business of said distillery, dated _____ day of _____ to _____ day of _____, both inclusive, there was produced in said distillery, and withdrawn and placed in warehouse, the number of proof gallons of spirits; and there were actually mashed and used in said distillery, and consumed in the production of spirits therein, the several quantities of grain, sugar, molasses, and other materials respectively hereinbefore specified, and no more."

One of the said duplicate returns shall be transmitted by the collector to the Commissioner.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2846 ASSESSMENT FOR DEFICIENCIES IN PRODUCTION AND EXCESS OF MATERIAL USED—(a) *Power of Commissioner.* On the receipt of the distiller's return in each month, the Commissioner shall inquire and determine whether the distiller has accounted for all the grain or molasses used, and all the spirits produced by him in the preceding month. * * * If the Commissioner finds that the distiller has not accounted for all the spirits produced by him, he shall, from all the evidence he can obtain, determine what quantity of spirits was actually produced by such distiller, and an assessment shall be made for the difference between the quantity reported and the quantity shown to have been actually produced, at the rate of tax imposed by law for every proof gallon. * * * All assessments made under this section shall be a lien on all distilled spirits on the distillery premises, the distillery used for distilling the same, the stills, vessels, fixtures, and tools therein, the tract of land whereon the said distillery is located, and any building thereon from the time such assessment is made until the same shall have been paid.

(b) *Cross references.* * * *

(2) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2850 SUSPENSION AND RESUMPTION OF DISTILLING—(a) *Requirements.* Any distiller desiring to suspend work in his distillery may give notice in writing to the collector of the district, stating when he will suspend work; and on the day mentioned in said notice said collector or one of his deputies shall, at the expense of the distiller, proceed to fasten securely the door of every furnace of every still or boiler in said distillery, by locks and otherwise, and shall adopt such other means as the Commissioner may prescribe to prevent the lighting of any fire in such furnace or under such stills or boilers. The locks and seals, and other materials required for such purpose, shall be furnished to the collector by the Commissioner, to be duly accounted for by said collector. Such notice by any distiller, and the

action taken by the collector in pursuance thereof, shall be immediately transmitted to the Commissioner. No distiller, after having given such notice, shall, after the time stated therein, carry on the business of a distiller on said premises until he gives another notice in writing to said collector, stating the time when he will resume work; and at the time so stated for resuming work the collector or one of his deputies shall attend at the distillery to remove said locks and other fastenings; and thereupon, and not before, work may be resumed in said distillery, which fact shall be immediately reported to the collector of the district, and by him transmitted to the Commissioner.

Every distiller who, after the time fixed in said notice declaring his intention to suspend work, carries on the business of a distiller on said premises, or has mash, wort, or beer in his distillery, or on any premises connected therewith or has in his possession or under his control any mash, wort, or beer, with intent to distill the same on said premises, shall incur the forfeitures and be subject to the same punishment as provided for persons who carry on the business of a distiller without having given the bonds required by law.

But nothing in this section shall be held to apply to suspensions caused by unavoidable accident; and the Commissioner shall prescribe regulations to govern such cases of involuntary suspension.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2851 REDUCTION OF PRODUCING CAPACITY OF DISTILLERY—(a) *Requirements.* Whenever any distiller desires to reduce the producing capacity of his distillery, he shall give notice of such intention, in writing, to the collector, stating the quantity of spirits which he desires thereafter to manufacture or produce every twenty-four hours.

And every person who breaks, injures, or in any manner tampers with any lock, seal, or other fastening applied to any furnace, still, or other vessel, in pursuance of the provisions of law, or who opens or attempts to open any door, or other vessel, which is locked or sealed, or otherwise closed or fastened as herein provided, or who uses any furnace, still, or other vessel, which is so locked, sealed, or fastened, shall be deemed guilty of a felony, and shall be fined not less than \$1,000 nor more than \$5,000, and imprisoned for not less than one year nor more than three years.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2857 BOOKS OF RECTIFIERS AND WHOLESALE DEALERS—(a) *Requirements.* Every rectifier and every wholesale liquor dealer who sells, or offers for sale, distilled spirits in quantities of five wine-gallons or more to the same person at the same time shall keep daily, at his place of business covered by his special tax stamp, a record of distilled spirits received and disposed of by him, and shall render under oath correct transcripts and summaries of such records: *Provided,* That the Commissioner may in his discretion require such record to be kept at the place where the spirits are actually received and sent out. The records shall be kept and the transcripts shall be rendered in such form, and under such rules and regulations as the Commissioner, with the approval of the Secretary, may prescribe.

The records required to be kept under the provisions of this section and regulations issued pursuant thereto, shall be preserved for a period of four years, and during such period shall be available during business hours for inspection and the taking of abstracts therefrom by the Commissioner or any internal revenue officer.

Every rectifier and wholesale liquor dealer who refuses or neglects to keep such records in the form prescribed by the Commissioner,

with the approval of the Secretary, or to make entries therein, or cancels, alters, or obliterates any entry therein (except for the purpose of correcting errors) or destroys any part of such records, or any entry therein, or makes any false entry therein, or hinders or obstructs any internal revenue officer from inspecting such records or taking any abstracts therefrom, or neglects or refuses to preserve or produce such records as required by this chapter or by regulations issued pursuant thereto, shall pay a penalty of \$100 and, on conviction, shall be fined not less than \$100 nor more than \$5,000, and be imprisoned not less than three months nor more than three years.

Every rectifier and wholesale liquor dealer who refuses or neglects to render transcripts or summaries in the form required by the Commissioner, with the approval of the Secretary, shall, upon conviction, be fined not more than \$100 for each such neglect or refusal.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2859 BOOKS OF DISTILLERS AS WHOLESALE DEALERS—(a) *Requirement.* Every distiller shall keep daily a record of distilled spirits of his own production disposed of by him, and shall render under oath correct transcripts and summaries of such records. The records shall be kept and the transcripts shall be rendered in such form, and under such rules and regulations as the Commissioner, with the approval of the Secretary, may prescribe.

The records required to be kept under the provisions of this section and regulations issued pursuant thereto, shall be preserved for a period of four years, and during such period shall at all times be available, during business hours, for inspection and the taking of abstracts therefrom by the Commissioner or any internal revenue officer.

Every distiller who refuses or neglects to keep such records in the form prescribed by the Commissioner, with the approval of the Secretary, or to make entries therein, or cancels, alters, or obliterates any entry therein (except for the purpose of correcting errors) or destroys any part of such records, or any entry therein, or makes any false entry therein, or hinders or obstructs an internal revenue officer from inspecting such records or taking any abstracts therefrom, or neglects or refuses to preserve or produce such records as required by this chapter or by regulations issued pursuant thereto shall pay a penalty of \$100 and, on conviction, shall be fined not less than \$100 nor more than \$5,000, and be imprisoned not less than three months nor more than three years.

Every distiller who refuses or neglects to render the transcripts or summaries in the form as required by the Commissioner, with the approval of the Secretary, shall, upon conviction, be fined not more than \$100 for each such neglect or refusal.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2868 EFFACEMENT OF STAMPS AND BRANDS ON EMPTIED PACKAGES. Every person who empties or draws off, or causes to be emptied or drawn off, any distilled spirits from a cask or package bearing any mark, brand, or stamp, required by law, shall at the time of emptying such cask or package, efface and obliterate said mark, stamp, or brand. Every such cask or package from which said mark, brand, or stamp is not effaced and obliterated as herein required, shall be forfeited to the United States, and may be seized by any officer of internal revenue, wherever found. And every railroad company or other transportation company, or person who receives or transports, or has in possession with intent to transport, or with intent to cause or procure to be transported, any such empty cask or package, or any part thereof, having thereon any brand,

mark, or stamp, required by law to be placed on any cask or package containing distilled spirits, shall forfeit \$300 for each such cask or package, or any part thereof, so received or transported, or had in possession with the intent aforesaid; and every boat, railroad car, cart, dray, wagon, or other vehicle, and all horses and other animals used in carrying or transporting the same, shall be forfeited to the United States. Every person who fails to efface and obliterate said mark, stamp, or brand, at the time of emptying such cask or package, or who receives any such cask or package, or any part thereof, with the intent aforesaid, or who transports the same, or knowingly aids or assists therein, or who removes any stamp provided by law from any cask or package containing, or which had contained, distilled spirits, without defacing and destroying the same at the time of such removal, or who aids or assists therein, or who has in his possession any such stamp so removed as aforesaid, or has in his possession any canceled stamp, or any stamp which has been used, or which purports to have been used, upon any cask or package of distilled spirits, shall be deemed guilty of a felony, and shall be fined not less than \$500 nor more than \$10,000, and imprisoned not less than one year nor more than five years.

26 U. S. C. 2870 PROHIBITED HOURS FOR REMOVAL OF SPIRITS. No person shall remove any distilled spirits at any other time than after sun-rising and before sun-setting in any cask or package containing more than ten gallons from any premises or building in which the same may have been distilled, redistilled, rectified, compounded, manufactured, or stored; and every person who violates this provision shall be liable to a penalty of \$100 for each cask, barrel, or package of spirits so removed; and said spirits, together with any vessel containing the same, and any horse, cart, boat, or other conveyance used in the removal thereof, shall be forfeited to the United States.

26 U. S. C. 2877 STOREKEEPER-GAUGER'S RECORDS—(a) *Requirement.* The storekeeper-gauger assigned to any distillery shall, in addition to all other duties required to be performed by him, keep such records and submit such reports as the Commissioner, with the approval of the Secretary, shall, by regulations, prescribe.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2878 DRAWING, GAUGING, AND MARKING OF DISTILLED SPIRITS—(a) *General rule.* Except as provided in section 2883, all distilled spirits shall be drawn from receiving cisterns into casks or packages and thereupon shall be gauged, proved, and marked by a storekeeper-gauger, and immediately removed into an internal revenue bonded warehouse. The Commissioner, with the approval of the Secretary, is hereby empowered to prescribe all necessary regulations relating to the drawing off, gauging, and packaging of distilled spirits; the marking, branding, numbering, and stamping of such packages; and the transfer and transportation to, and the storage of such spirits in, internal revenue bonded warehouses.

(b) *In wooden packages containing metallic cans for export.* Upon the application of the distiller and under such regulations as the Commissioner, with the approval of the Secretary, may prescribe, distilled spirits may be drawn into wooden packages, each containing two or more metallic cans, which cans shall each have a capacity of not less than five gallons, wine measure. Such packages shall be filled and used only for exportation from the United States. And there shall be charged for each of said packages or cases for the expense of providing and affixing stamps, 5 cents.

(c) *Standards of fill.* The Commissioner, with the approval of the Secretary, may, by regulations, prescribe the standards of fill of

casks or packages of distilled spirits at each distillery.

(d) *Marking and branding by distiller.* The Commissioner, with the approval of the Secretary, may, by regulations, from time to time, require a distiller, at his expense and under the immediate personal supervision of a storekeeper-gauger, to do such marking and branding and such mechanical labor pertaining to gauging required under this section as the Commissioner deems proper and determines may be done without danger to the revenue.

(e) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2879 DEPOSITS OF SPIRITS IN WAREHOUSES—(a) *Entry for deposit.* The distillers of all spirits removed to an internal revenue bonded warehouse shall enter the same for deposit in such warehouse, under such regulations as the Commissioner may prescribe. Said entry shall be in such form as the Commissioner shall prescribe.

26 U. S. C. 2883 TRANSFER OF SPIRITS AT REGISTERED DISTILLERIES—(a) *Requirements.* Subject to the provisions of existing law, spirits of one hundred and sixty degrees of proof or more produced at registered distilleries, including registered fruit distilleries (such registered distilleries and registered fruit distilleries being referred to hereafter as "distillery" or "distilleries"), may be transferred by means of pipe lines from receiving cisterns in the distillery direct to storage tanks in the internal revenue bonded warehouse located on the bonded premises where produced or located contiguous thereto, and be warehoused in such storage tanks, or they may be withdrawn from the receiving cisterns, without, or after reduction in proof, into approved containers and transferred to any internal revenue bonded warehouse for storage therein, or they may be tax-paid in such approved containers in the cistern rooms of distilleries without being entered into an internal revenue bonded warehouse. Such spirits may be drawn into approved containers from storage tanks in an internal revenue bonded warehouse. Spirits of one hundred and sixty degrees of proof, or more, may be transferred in bond in tank cars from cistern rooms of distilleries or from storage tanks in an internal revenue bonded warehouse and be deposited in storage tanks in any internal revenue bonded warehouse. Such spirits in tanks in internal revenue bonded warehouses distilled at or above one hundred and ninety degrees of proof may be reduced to not less than one hundred and eleven degrees prior to being drawn into packages. Such spirits, upon tax payment, may be withdrawn in approved containers, including pipe lines to contiguous premises, for use for beverage purposes only. Except as provided in subsection (c) hereof and section 2916, such spirits may not be withdrawn for denaturation.

(c) *Transfer of rum for denaturation.* Rum of not less than one hundred and fifty degrees of proof may be transferred by pipe line for denaturation from receiving cisterns in the cistern room of any distillery to a denaturing bonded warehouse on the distillery premises or to storage tanks situated in the internal revenue bonded warehouse located on the distillery premises, or from such storage tanks to a denaturing bonded warehouse on the distillery premises.

(d) *Transfer of gin.* Gin of any proof may be transferred in bond by means of pipe lines from receiving cisterns in distilleries direct to storage tanks in the internal revenue bonded warehouse located on the bonded premises where produced, or located contiguous thereto, and be warehoused in such storage tanks. Such gin may, upon tax payment, be transferred by pipe line to a contiguous tax-paid bottling house or rectifying plant.

(e) *Redistillation of spirits.* Distilled spirits of any proof may be transferred from a distillery or an internal revenue bonded warehouse to any distillery for redistillation upon a showing of the need therefor: *Provided*, That only spirits of one hundred and sixty degrees of proof or more may be transferred by pipe line to a distillery for redistillation from storage tanks in an internal revenue bonded warehouse located on such distillery premises or located contiguous thereto: *Provided further*, That spirits of any proof may be transferred by pipe line for redistillation from receiving tanks in a distillery to a contiguous distillery. Upon removal of distilled spirits to any distillery for redistillation, the consignee distiller shall assume the liability for the payment of the tax on the spirits from the time they leave the internal revenue bonded warehouse or distillery, and the tax liability on the producing distiller or the internal revenue bonded warehouseman, and the liens on the premises of the producing distiller shall cease, and the tax and liens shall become the liability of the consignee distiller: *Provided further*, That upon redistillation the redistilled spirits shall be treated the same as if the spirits had been originally produced by the redistiller and all prior obligations as to taxes and liens shall be superseded. Sections 2800 (a) (5) and 3250 (f) (1) shall not apply to the redistillation of spirits removed under the provisions of this section.

(f) *Regulations.* The Commissioner, with the approval of the Secretary, is hereby empowered to prescribe all necessary regulations relating to the drawing off, transferring, gauging, storing, redistillation, and transportation of the spirits; the records to be kept and returns to be made; the size and kind of containers to be used; the marking, branding, numbering, and stamping of such containers; and the kind of bond and the penal sum thereof.

(g) *Effect on other laws.* Nothing contained in this section shall be construed as restricting or limiting the provisions of other sections of the internal-revenue laws relating to internal revenue bonded warehouses, distilleries, and bonded wineries.

(h) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2885 EXPORTATION OF SPIRITS WITHDRAWN FROM WAREHOUSES—(a) *Entries, bonds, and bills of lading.* Distilled spirits may be withdrawn from internal revenue bonded warehouses, at the instance of the owner of the spirits, for exportation in the original casks or packages, without the payment of tax, under such regulations, and after making such entries and executing and filing with the collector of the district from which the removal is to be made such bonds and bills of lading, and giving such other additional security as may be prescribed by the Commissioner, with the approval of the Secretary, and bonds given under this section shall be canceled under such regulations as the Secretary shall prescribe. The bonds required to be given for the exportation of distilled spirits shall be canceled upon the presentation of satisfactory proof and certificates that said distilled spirits have been landed at the port of destination named in the bill of lading, or upon satisfactory proof that after shipment the same were lost at sea without fault or neglect of the owner or shipper hereof.

(b) *Marks, stamps, and permits.* All distilled spirits intended for export, as aforesaid, before being removed from the internal revenue bonded warehouse, shall be marked as the Commissioner may prescribe, and shall have affixed to each cask an engraved stamp indicative of such intention, to be provided and furnished by the several collectors as in the case of other stamps, and to be charged to them and accounted for in the same manner, and for the expense attending the pro-

viding and affixing such stamps 10 cents for each package so stamped shall be paid to the collector on making the entry for such transportation. When the owner of the spirits shall have made the proper entries, filed the bonds, and otherwise complied with all the requirements of the law and regulations as herein provided, the collector shall issue to him a permit for the removal and transportation of said spirits to the collector of the port from which the same are to be exported, accurately describing the spirits to be shipped, the amount of tax thereon, the State and district from which the same is to be shipped, the name of the distiller by whom distilled, the port to which the same are to be transported, the name of the collector of the port to whom the spirits are to be consigned, and the routes over which they are to be sent to the port of shipment. Such shipments shall be made over bonded routes whenever practicable. The collector of the port shall receive such spirits, and permit the exportation thereof, under the same rules and regulations as are prescribed for the exportation of spirits upon which the tax has been paid.

(c) *Metallic cans in wooden packages.* For authority of distiller to draw distilled spirits into wooden packages, each containing two or more metallic cans, for exportation only, see section 2878 (b).

(d) *Penalties and forfeitures.* * * *

(2) *Unlawful relanding.* Every person who intentionally relands within the jurisdiction of the United States any distilled spirits which have been shipped for exportation under the provisions of this chapter, or who receives such relanded distilled spirits, and every person who aids or abets in such relanding or receiving of such spirits, shall be fined not exceeding \$5,000 and imprisoned not more than three years; and all distilled spirits so relanded, together with the vessel from which the same were relanded within the jurisdiction of the United States, and all boats, vehicles, horses, or other animals used in relanding and removing such distilled spirits, shall be forfeited to the United States.

(e) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2888 TRANSFER OF SPIRITS INTO TANK CARS FOR EXPORT—(a) *Requirement.* Under such regulations as the Commissioner, with the approval of the Secretary, may prescribe, alcohol or other distilled spirits of a proof strength of not less than one hundred and eighty degrees intended for export free of tax may be drawn from receiving cisterns at any distillery, or from storage tanks in any internal revenue bonded warehouse, for transfer to tanks or tank cars for export from the United States, and all provisions of law relating to the exportation of distilled spirits not inconsistent herewith shall apply to spirits removed for export under the provisions of this section.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2901 LOSS ALLOWANCES—(a) *Extent.* No tax shall be collected in respect of distilled spirits lost or destroyed while in bond, except that such tax shall be collected—

(1) *Theft.* In the case of loss by theft unless the Commissioner shall find that the theft occurred without connivance, collusion, fraud, or negligence on the part of the distiller, warehouseman, owner, consignor, consignee, bailee, or carrier, or the employees of any of them; and

(2) *Voluntary destruction.* In the case of voluntary destruction unless the distilled spirits were unfit for use for beverage purposes and the distiller, warehouseman, or other person responsible for the tax, obtained the written permission of the Commissioner for such destruction in each case.

(b) *Proof of loss.* In any case in which spirits are lost or destroyed, whether by theft or otherwise, the Commissioner may require the distiller or warehouseman or other person responsible for the tax to file a claim for relief from the tax and submit proof as to the cause of such loss. In every case where it appears that the loss was by theft, the burden shall be upon the distiller or warehouseman or other person responsible for the tax to establish to the satisfaction of the Commissioner that such loss did not occur as the result of connivance, collusion, fraud, or negligence on the part of the distiller, warehouseman, owner, consignor, consignee, bailee, or carrier, or the employees of any of them.

(c) *Refund of tax.* When, in any case where the tax would not be collectible by virtue of subsection (a), but such tax has been paid, the Commissioner shall refund such tax. Nothing in section 2901 as hereby amended, or as heretofore amended, shall be construed to authorize refund of the tax where the loss occurred after the tax was paid.

(d) *Insurance coverage.* The abatement or refund of taxes provided for by subsections (a) and (c) in the case of loss of distilled spirits by theft shall only be allowed to the extent that the claimant is not indemnified against or recompensed for such loss.

(e) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 2916 REMOVAL FOR DENATURATION OR DESTRUCTION OF DISTILLATES CONTAINING ALDEHYDES OR FUSIL OIL.—(a) *Power of Commissioner.* Under rules and regulations to be prescribed by the Commissioner, with the approval of the Secretary, distillers may collect, in locked tanks, distillates containing one-half of 1 per centum or more of aldehydes or 1 per centum or more of fusil oil (heads and tails) removed in the course of distillation. The distillates so collected may, under regulations prescribed by the Commissioner, with the approval of the Secretary, be removed from such distillery for denaturation or be destroyed in the manner prescribed by the Commissioner, under the supervision of an internal revenue officer to be designated by the Commissioner, and when so denatured or destroyed shall not be subject to the tax imposed by law upon distilled spirits.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 3170 TRANSFER AND DELEGATION OF POWERS. The Secretary is authorized to confer and impose upon the Commissioner and any of his assistants, agents, or employees, and upon any other officer, employee, or agent of the Treasury Department, any of the rights, privileges, powers, duties, and protection conferred or imposed upon the Secretary, or any officer or employee of the Treasury Department, by any law now or hereafter in force relating to the taxation, exportation, transportation, manufacture, possession, or use of, or traffic in, distilled spirits, wine, fermented liquors, or denatured alcohol.

26 U. S. C. 3171 RECORDS, STATEMENTS, AND RETURNS.—(a) *Requirements.* Every person liable to any tax imposed by this chapter, or for the collection thereof, shall keep such records, render under oath such statements, make such returns, and comply with such rules and regulations, as the Commissioner, with the approval of the Secretary, may from time to time prescribe.

(b) *TRANSFER OF DUTIES.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 3173 PENALTIES AND FORFEITURES.—(a) *Removal or transportation of liquors or wines under improper brands.*

Whenever any person ships, transports or removes any spirituous or fermented liquors or wines, under any other than the proper name or brand known to the trade as designating the kind and quality of the contents of the casks or packages containing the same, or causes such act to be done, he shall forfeit said liquors or wines, and casks or packages, and be subject to pay a fine of \$500.

(b) *Other violations.* (1) Any person required to pay, or to collect, account for and pay over any tax on distilled spirits, wines, or fermented malt liquors, or required by law or regulations made under authority thereof to make a return or supply any information for the purposes of the computation, assessment or collection of any such tax, who fails to pay, collect, or truly account for and pay over any such tax, make any such return or supply any such information at the time or times required by law or regulation shall in addition to other penalties provided by law be subject to a penalty of not more than \$1,000.

(2) Any person who willfully refuses to pay, collect, or truly account for and pay over any such tax, make such return or supply such information at the time or times required by law or regulation, or who willfully attempts in any manner to evade such tax shall be guilty of a misdemeanor and in addition to other penalties provided by law shall be fined not more than \$10,000 or imprisoned for not more than one year, or both, together with the costs of prosecution.

(3) Any person who willfully refuses to pay, collect, or truly account for and pay over any such tax shall in addition to other penalties provided by law be liable to a penalty of the amount of the tax evaded, or not paid, collected, or accounted for and paid over, to be assessed and collected in the same manner as taxes are assessed and collected: *Provided, however,* That no penalty shall be assessed under this paragraph for any offense for which a penalty may be assessed under authority of section 3612, or of section 2901 (f) or 3043, or for any offense for which a penalty has been recovered under section 2806 (e).

(4) The term "person" as used in this subsection includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

26 U. S. C. 3175 OTHER LAWS APPLICABLE. All administrative, special, or stamp provisions of law, including the law relating to the assessment of taxes, so far as applicable, shall be extended to and made a part of this chapter.

26 U. S. C. 3176 RULES AND REGULATIONS.—(a) *Power of Commissioner.* The Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this chapter.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 3180 DISTILLERIES ERECTED PRIOR TO JULY 20 1868.—(a) *Requirements.* In any case where the owner of a distillery or distilling apparatus, erected prior to July 20, 1868, has only an estate for a term of years or other estate less than fee-simple in the lot or tract of land on which the distillery is situated, the evidence of title to which shall have been duly recorded prior to that date; or in like case, where the lease or other evidence of title is held but was not required by the laws of the State to be recorded in order to be valid at the time of its execution; or in any case of such prior erection where the title was then, and has continued to be, in litigation; or in any case of such prior erection where such owner is possessed of the fee, but encumbered with a mortgage executed and duly recorded prior to July 20, 1868, and not due, or in any case of such prior erection

where the fee is held by a femme-covert, minor, person of unsound mind, or other person incapable of giving consent, as required in section 2815 (b) (1) (B), the value of such lot or tract of land, together with the building and distilling apparatus, shall be appraised in the manner to be prescribed by the Commissioner pursuant to section 2815 (b) (1) (C); and the officer designated by the Commissioner may, at the discretion of the Commissioner, be authorized to accept, in lieu of the said written consent, the bond of such distiller, in such form as the Commissioner may prescribe, with not less than two personal sureties or one corporate surety, conditioned that in case the distillery, distilling apparatus, or any part thereof, shall by final judgment be forfeited for the violation of any of the provisions of law, the obligors shall pay the amount stated in said bond. Said sureties shall be residents of the collection district or county, or of an adjoining county in the same State in which the distillery is situated, and owners of unencumbered real estate in said district or county, or adjoining county, equal to such appraised value, and the penal sum of said bond shall be equal to the appraised value of said lot or tract of land together with the buildings and distilling apparatus.

(b) *Bond.* The officer designated by the Commissioner may at any time, at the discretion of the Commissioner, accept such bond as is authorized to be given by the distiller in lieu of the written consent of the owner of the fee in the case of a distillery erected prior to July 20, 1868, notwithstanding such distillery has since then been increased by the addition of land or buildings adjacent or contiguous thereto, not owned by the distiller himself in fee; such bond to be for and in respect of such addition only, if the distillery be one which the distiller owns in fee or in respect to which he has procured the written consent of the owner of the fee or other encumbrance, otherwise to be for and in respect of the entire distillery as increased by such addition.

(c) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents, see section 3170.

26 U. S. C. 3250 TAX.—(a) *Wholesale dealers in liquors.*—(1) *In general.* Wholesale dealers in liquors shall pay a special tax of \$110.

(4) *Distillers selling at wholesale.* No distiller who has given the required bond and who sells only distilled spirits of his own production at the place of manufacture, or at the place of storage in bond, in the original packages to which the taxpaid stamps are affixed, shall be required to pay the special tax of a wholesale dealer in liquors on account of such sales.

26 U. S. C. 3254 DEFINITIONS.—(a) *Distiller.* For definition of distiller, see section 2809 (a).

(b) *Wholesale dealer in liquors.* Except as otherwise provided, every person who sells, or offers for sale, foreign or domestic distilled spirits, wines, or malt liquors in quantities of five wine-gallons or more to the same person at the same time, shall be regarded as a wholesale dealer in liquors: *Provided,* That the Commissioner may, by regulations, with the approval of the Secretary, provide for the issuance of a stamp denoting payment of such special tax as a "wholesale dealer in wines" or a "wholesale dealer in wines and malt liquors" if, as the case may be, wines only, or wines and malt liquors only, are sold by a wholesale dealer in liquors.

(g) *Rectifier.* Every person who rectifies, purifies, or refines distilled spirits or wines by any process other than by original and continuous distillation from mash, wort, or wash, through continuous closed vessels and pipes, until the manufacture thereof is com-

plete, and every wholesale or retail liquor dealer who has in his possession any still or leach tub, or who keeps any other apparatus for the purpose of refining in any manner distilled spirits, and every person who, without rectifying, purifying, or refining distilled spirits, shall, by mixing such spirits, wine, or other liquor with any material, manufacture any spurious, imitation, or compound liquors for sale, under the name of whisky, brandy, gin, rum, wine, spirits, cordials, or wine bitters, or any other name, shall be regarded as a rectifier, and as being engaged in the business of rectifying: *Provided*, That nothing in this subsection or section 3250 (f) (1) shall be held to prohibit the purifying or refining of spirits in the course of original and continuous distillation through any material which will not remain incorporated with such spirits when the manufacture thereof is complete.

(h) *Manufacturer of stills.* Any person who manufactures any still or worm to be used in distilling shall be deemed a manufacturer of stills.

26 U. S. C. 3270 **REGISTRATION**—(a) *Requirements.* Every person engaged in any trade or business on which a special tax is imposed by law shall register with the collector of the district his name or style, place of residence, trade or business, and the place where such trade or business is to be carried on. In case of a firm or company, the names of the several persons constituting the same, and the places of residence, shall be so registered.

26 U. S. C. 3271 **PAYMENT OF TAX**—(a) *Condition precedent to doing business.* No person shall be engaged in or carry on any trade or business mentioned in this chapter until he has paid a special tax therefor in the manner provided in this chapter.

(b) *Due date.* All special taxes shall become due on the 1st day of July in each year, or on commencing any trade or business on which such tax is imposed. In the former case the tax shall be reckoned for one year, and in the latter case it shall be reckoned proportionately, from the 1st day of the month in which the liability to a special tax commenced, to and including the 30th day of June following.

(c) *How paid.*—(1) *Stamp.* All special taxes imposed by law, including the tax on stills or worms, shall be paid by stamps denoting the tax.

(2) *Assessment.* For authority of Commissioner to make assessments where the special taxes have not been duly paid by stamp, at the time and in the manner provided by law, see section 3640.

26 U. S. C. 3272 **RETURNS**—(a) *Time for filing.* It shall be the duty of the special taxpayers to render their returns with remittances to the collector at such times within the calendar month in which the special tax liability commenced as shall enable him to receive such returns, duly signed and verified, together with the remittances, not later than the last day of the month, except in cases of sickness or absence, as provided for in section 3634.

(b) *Transfer of duties.* For transfer of powers and duties of Commissioner and his agents in case of narcotics and liquor, see subchapter D of chapter 23 and section 3170.

(c) *Penalties.* For penalties imposed for failure to file returns or for making false or fraudulent returns, see section 3612.

26 U. S. C. 3300 **ESTABLISHMENT AND ALTERATION**—(a) *Authorization.* The Commissioner, with the approval of the Secretary, may establish and, from time to time, alter or change the form, style, character, material, and device of any stamp, mark, or label used under any provision of the laws relating to internal revenue.

(b) *Application of penalty and forfeiture provisions.* All pains, penalties, fines, and forfeitures provided by law relating to in-

ternal revenue stamps shall apply to and have full force and effect in relation to any and all stamps so established by the Commissioner.

26 U. S. C. 3301 **ATTACHMENT AND CANCELLATION**—(a) *General authority to prescribe methods and instruments.* The stamps referred to in the preceding section shall be attached, protected, removed, canceled, obliterated, and destroyed, in such manner and by such instruments or other means as the Commissioner, with the approval of the Secretary may prescribe; and he is authorized and empowered to make, with the approval of the Secretary, all needful regulations relating thereto.

26 U. S. C. 3656 **PAYMENT BY CHECK AND MONEY ORDERS**—(a) *Certified, cashiers', and treasurers' checks and money orders.*—(1) *Authority to receive.* It shall be lawful for collectors to receive for internal revenue taxes or in payment of stamps to be used in payment of internal revenue taxes certified, cashiers', and treasurers' checks drawn on National and State banks and trust companies, and United States postal, bank, express, and telegraph money orders, during such time and under such regulations as the Commissioner, with the approval of the Secretary, may prescribe.

(2) *Discharge of liability.*—(A) *Check duly paid.* No person who may be indebted to the United States on account of internal revenue taxes or stamps used or to be used in payment of internal revenue taxes who shall have tendered a certified, cashiers', or treasurer's check or money order as provisional payment therefor, in accordance with the terms of this subsection, shall be released from the obligation to make ultimate payment thereof until such certified, cashiers' or treasurer's check or money order so received has been duly paid.

(B) *Check unpaid.* If any such check or money order so received is not duly paid, the United States shall, in addition to its right to exact payment from the party originally indebted therefor, have a lien for the amount of such check upon all the assets of the bank on which drawn or for the amount of such money order upon all the assets of the issuer thereof; and such amount shall be paid out of its assets in preference to any or all other claims whatsoever against said bank or issuer except the necessary costs and expenses of administration and the reimbursement of the United States for the amount expended in the redemption of the circulating notes of such bank.

(b) *Other checks.*—(1) *Authority to receive.* Collectors may receive checks in addition to those specified in subsection (a) in payment of taxes other than those payable by stamp during such time and under such rules and regulations as the Commissioner, with the approval of the Secretary, shall prescribe.

(2) *Ultimate liability.* If a check so received is not paid by the bank on which it is drawn the person by whom such check has been tendered shall remain liable for the payment of the tax and for all legal penalties and additions to the same extent as if such check had not been tendered.

26 U. S. C. 3791 **RULES AND REGULATIONS**—(a) *Authorization.*—(1) *In general.* Except as provided in section 1928 (a), Cotton Futures, section 2599, Marihuana, section 2559, Narcotics, section 3176, Liquor, and section 1805, Silver, the Commissioner, with the approval of the Secretary, shall prescribe and publish all needful rules and regulations for the enforcement of this title.

(2) *In case of change in law.* The Commissioner may make all such regulations, not otherwise provided for, as may have become necessary by reason of any alteration of law in relation to internal revenue.

(b) *Retroactivity of regulations or rulings.* The Secretary, or the Commissioner with the approval of the Secretary, may prescribe the extent, if any, to which any ruling, regulation, or Treasury Decision, relating to the internal revenue laws, shall be applied without retroactive effect.

26 U. S. C. 3809 **VERIFICATION OF RETURNS; PENALTIES OF PERJURY**—(a) *Penalties.* Any person who willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter, shall be guilty of a felony, and, upon conviction thereof, shall be fined not more than \$2,000 or imprisoned not more than five years, or both.

(b) *Signature presumed correct.* The fact that an individual's name is signed to a return, statement, or other document filed shall be prima facie evidence for all purposes that the return, statement, or other document was actually signed by him.

(c) *Verification in lieu of oath.* The Commissioner, under regulations prescribed by him with the approval of the Secretary, may require that any return, statement, or other document required to be filed under any provision of the internal revenue laws shall contain or be verified by a written declaration that it is made under the penalties of perjury, and such declaration shall be in lieu of any oath otherwise required.

26 U. S. C. 4017 **DAILY GAUGING RETURN**—(a) *Requirement.* Every storekeeper-gauger shall, under such regulations as may be prescribed by the Commissioner, make a daily return to the collector of his district giving a true account in detail of all articles gauged and proved or inspected by him, and for whom, and the number and kind of stamps used by him.

(b) *Transfer of powers and duties.* For transfer of powers and duties of Commissioner and his agents, in respect to liquor, see section 3170.

26 U. S. C. 4041 **ISSUE OF INSTRUCTIONS, REGULATIONS, AND FORMS**—(a) *In general.* The Secretary shall prescribe forms of entries, oaths, bonds, and other papers, and rules and regulations, not inconsistent with law, to be used under and in the execution and enforcement of the various provisions of the internal revenue laws; and he shall give such directions to collectors and prescribe such rules and forms to be observed by them as may be necessary for the proper execution of the law.

(b) *Receipt of United States securities.* For authority of the Secretary to issue instructions and regulations governing the receipt by collectors and others of United States securities, see R. S. 251 (U. S. C., Title 31, section 427).

SUBPART A—SCOPE OF REGULATIONS

§ 183.1 *Production and removal of distilled spirits.* These regulations "Regulations 4, Production of Distilled Spirits" (26 CFR Part 183), contain the procedural and substantive requirements relative to the production of distilled spirits and the removal thereof from the distillery. The regulations cover the location, construction, equipment, action by the district supervisor and Commissioner; control and supervision of the distillery, production and removal of distilled spirits; and concern the sale, shipment, losses, records and reports, of distilled spirits.

SUBPART B—DEFINITIONS

§ 183.5 *Meaning of terms.* As used in this part, unless the context otherwise requires, terms shall have the meanings ascribed in this subpart.

§ 183.6 *Approved containers.* "Approved containers" shall mean casks, barrels, or similar wooden packages or drums or similar metal packages having a capacity of not less than 10 gallons each, provided that for the withdrawal of samples for laboratory analysis, "approved containers" shall mean any container of less than 10 gallons capacity. The term "approved containers" shall also mean railroad tank cars, tank trucks, and pipe lines where specifically stated in this part.

§ 183.7 *Beer.* "Beer" shall mean the fermented mash of grain, molasses, or other materials produced for distillation.

§ 183.8 *Brandy.* "Brandy" shall mean the distillate obtained from the materials specified in section 2825, I. R. C., or from other fruits authorized by the Commissioner, and from the products and residues of such materials, and shall include neutral spirits—fruit and spirits—fruit, except where otherwise indicated, but shall not include distillates containing one-half of 1 percent or more of aldehydes or 1 percent or more of fusel oil.

§ 183.9 *Collector.* "Collector" shall mean Collector of Internal Revenue.

§ 183.10 *Commissioner.* "Commissioner" shall mean the Commissioner of Internal Revenue.

§ 183.11 *Distilled spirits.* "Distilled spirits" shall mean that substance produced by the distillation of fermented grain, molasses, or other materials, commonly known as spirits, whisky, rum, gin, brandy, etc., but shall not include alcohol.

§ 183.12 *Distiller.* "Distiller" shall mean the proprietor of the distillery.

§ 183.13 *Distillery.* "Distillery" shall mean that part of the distillery premises described in the distiller's notice, Form 27-A, where the distilled spirits are produced.

§ 183.14 *Distillery premises.* "Distillery premises" shall mean the lot or tract of land described in the distiller's notice, Form 27-A, and the distillery and other buildings and fixtures situated on and constituting a part of such lot or tract of land.

§ 183.15 *District supervisor or supervisor.* "District supervisor" or "supervisor" shall mean the person having charge of a supervisory district of the Alcohol Tax Unit of the Bureau of Internal Revenue.

§ 183.16 *Fruit distillery.* "Fruit distillery" or "registered fruit distillery" shall mean a distillery established or operated under the regulations (26 CFR Part 184) governing the production of brandy under the exemptions from law provided pursuant to section 2825, I. R. C.

§ 183.17 *Gallon.* "Gallon" or "wine gallon" shall mean a United States gallon of liquid measure equivalent to the volume of 231 cubic inches.

§ 183.18 *Heads and tails.* "Heads" and "tails" shall mean distillates containing one-half of 1 percent or more

of aldehydes or 1 percent or more of fusel oil.

§ 183.19 *Including.* The word "including" shall not be deemed to exclude things other than those enumerated which are in the same general class.

§ 183.20 *Inclusive language.* Words in the plural form shall include the singular, and vice versa, and words in the masculine gender shall include females, associations, copartnerships, and corporations.

§ 183.21 *I. R. C.* "I. R. C." shall mean the Internal Revenue Code.

§ 183.22 *Laboratory analysis.* "Laboratory analysis," shall mean the determination of the composition of distilled spirits by chemical, physical, or organoleptic examination.

§ 183.23 *Person, proprietor, or distiller.* "Person," "proprietor," or "distiller," shall include natural persons, associations, copartnerships, and corporations.

§ 183.24 *Proof.* "Proof," shall mean the ethyl alcohol content of a liquid at 60° Fahrenheit, stated as twice the percent of ethyl alcohol by volume.

§ 183.25 *Proof of distillation.* "Proof of distillation," shall mean the composite proof of the spirits in the receiving cisterns prior to reduction, or, if the spirits are reduced before reaching the receiving cisterns, the proof prior to such reduction, unless the spirits are subsequently redistilled at a higher proof than the proof prior to reduction.

§ 183.26 *Proof gallon.* "Proof gallon," shall mean the alcoholic equivalent of a United States gallon at 60° Fahrenheit, containing 50 percent of ethyl alcohol by volume.

§ 183.27 *Proof spirits.* "Proof spirits," shall mean that alcoholic liquor which contains 50 percent of ethyl alcohol by volume at 60° Fahrenheit and which has a specific gravity of 0.93418 in air at 60° Fahrenheit referred to water at 60° Fahrenheit as unity.

§ 183.28 *Registered distillery.* "Registered distillery," shall mean a distillery established or operated under this part.

§ 183.29 *Secretary.* "Secretary," shall mean the Secretary of the Treasury.

§ 183.30 *Slop or spent beer.* "Slop," or "spent beer," shall mean the residue that is left after distillation of the beer or fermented mash.

§ 183.31 *Spirits.* "Spirits," shall mean distilled spirits as defined in this subpart.

§ 183.32 *Tank car.* "Tank car," shall mean a railroad tank car conforming to the requirements of this part.

§ 183.33 *Tax gallon.* "Tax gallon" is the unit of distilled spirits upon which the rate of tax prescribed by law is imposed. When spirits are 100 degrees of proof or more, the tax rate is imposed on the proof gallon. When spirits are less than 100 degrees of proof, it is imposed on the wine-gallon.

§ 183.34 *U. S. C.* "U. S. C." shall mean the United States Code.

SUBPART C—LOCATION

§ 183.40 *Restrictions.* Distilleries may not be located in any dwelling house or in any shed, yard, or enclosure connected with any dwelling house, or on board any vessel or boat, or in any building or on any premises where beer, lager beer, ale, porter, or other fermented liquors, vinegar, or ether is manufactured or produced, or where sugars or sirups are refined, or where liquors of any description are retailed, or where any other business is carried on, or within 600 feet in a direct line of a vinegar factory using the vaporizing process, or, except as provided by this part, within 600 feet in a direct line of any premises authorized to be used for rectifying: *Provided*, That saleratus may be manufactured, or meal or flour ground from grain on the distillery premises, but such meal or flour must be used only for distillation on such premises.

(53 Stat. 314; 26 U. S. C. 2819)

§ 183.41 *Within 600 feet of rectifying plant.* No distiller shall carry on the business of distilling spirits at a distance of less than 600 feet in a direct line from a rectifying plant, except when he has been so authorized by the district supervisor. The district supervisor may grant such authority when he is of the opinion that the revenue will not be endangered thereby.

(53 Stat. 314, 373, as amended; 26 U. S. C. 2819, 3170)

§ 183.42 *Special application.* A person desiring to operate a distillery within 600 feet of a rectifying plant shall file a special application, in triplicate, for such privilege, with the district supervisor. The application shall state the locations of the distillery and the rectifying plant, the distance between the premises, the name of the proprietor of the rectifying plant, a description of any connecting pipe lines, the reason for locating the distillery within 600 feet of the rectifying plant, and any additional information which the district supervisor may require. The district supervisor will take action on such application in accordance with the procedure prescribed in § 183.291.

(53 Stat. 314, 373, as amended; 26 U. S. C. 2819, 3170)

§ 183.43 *Changes requiring approval.* Where there is to be a change in the distance between a distillery and a rectifying plant located within 600 feet of each other as a result of the extension or curtailment, or other change of either premises, a new special application, in triplicate, must be filed with the district supervisor by the proprietor of the premises which is to be extended or curtailed. Where a change occurs in the proprietorship of a distillery or rectifying plant located within 600 feet of each other, the new proprietor shall file with the district supervisor a new special application, in triplicate. Unless the distillery premises are extended or curtailed as the result of such change, the change may be reflected in the next amended or annual notice, Form 27-A, and plat, filed by the distiller. Such new special application shall be considered and disposed of in

accordance with the procedure prescribed in § 183.291.

(53 Stat. 314, 373, as amended; 26 U. S. C. 2819, 3170)

SUBPART D—CONSTRUCTION

§ 183.50 *Distillery buildings.* The distillery buildings must be securely constructed of brick, stone, wood, concrete, or other substantial material and must be completely separated from contiguous buildings not on the distillery premises by unbroken partitions of substantial construction extending from the ground to the roof in a direct vertical line: *Provided*, That where the furnace or boiler used for generating steam or heating water for use in the distillery is located off the distillery premises, or where steam is to be conveyed from a boiler in the distillery to other premises for manufacturing or other purposes, or where distilling material or fuel is to be received by chute or pipe line, or where distilled spirits, distilled water, etc., is to be removed from the distillery by pipe line, in accordance with law and this part, necessary openings for the passage of the required pipe lines or chutes may be permitted in the walls or partitions separating the distillery from the adjoining premises: *And provided further*, That necessary openings for the passage of approved water, electric, sewer, or similar lines may likewise be permitted in such walls or partitions. The foundations, floors, walls, and roofs, and the doors, windows, and other openings of distillery buildings shall be constructed, and such doors, windows, and other openings shall be protected and secured, as provided in this subpart.

§ 183.51 *Foundations.* The foundations of the distillery buildings shall be constructed of stone, brick, or concrete, or other equally substantial material, extending into the ground.

§ 183.52 *Floors.* The distillery buildings must have suitable floors constructed of wood, concrete, brick, or other equally substantial material. If the floor of the cistern room or building is constructed of wood, the boards must be fitted together by tongue and groove, or laid double with the second layer crossing the first at an angle of more than 20 degrees, and securely nailed and fastened.

§ 183.53 *Walls.* The outside walls of distillery buildings must be securely and substantially constructed. The ceiling and walls inside of the cistern room must be cased with matched tongue and groove boards, unless the use of other material affording equal protection from access without detection is approved by the Commissioner.

§ 183.54 *Roofs.* The roofs of distillery buildings must be securely and substantially constructed.

§ 183.55 *Doors.* The outside doors of the distillery buildings must be securely and substantially constructed and equipped, so that they may be securely locked. In addition, the doors of cistern rooms, rectifying rooms, and other rooms required to be locked by § 183.737, must comply with the following requirements:

The outside doors, and those on which Government locks are required, must be securely constructed of heavy timber or iron, or other equally substantial material. The hinges must be secured by roundheaded or carriage bolts, nutted, and riveted or battered on the inside. Hinges that cannot be thus secured must be inaccessible from the outside, and so attached that they cannot be removed when the doors are closed. The outside doors, and those on which Government locks are required, must be equipped with hasp and staple securely fastened on the inside, so that they may be securely locked. The doors secured from the inside must be provided with a cross bar in the middle of the door, and strong and suitable attachments for the reception of locks. Where there are double doors, one of them, at least, must be provided with substantial bolts at both the top and the bottom. These bolts must be so arranged as to plunge into substantial fastenings or holes in the middle of the upper and lower ends of the frame when the door is closed. Folding doors of wood or metal, vertical or horizontal sliding doors of wood or metal, and metal doors of the roller blind type, must be provided with substantial cross bars, or bolts that plunge into the upper and lower ends, or the sides of the door frame, so placed as to make the door rigid and secure, unless the doors operate in grooves or tracks that make them secure.

§ 183.56 *Windows in cistern and rectifying rooms.* The windows in the cistern room and redistilling or rectifying room must be constructed and secured as follows:

(a) *Within 12 feet of ground, etc.* All windows located within 12 feet of the ground, or within 12 feet (1) above a fire escape (except as provided in paragraph (b)), (2) above a roof, setback, or balcony within 12 feet of the ground, (3) above a roof or balcony of an adjoining building, or (4) of a roof, window, or other opening of an opposite building, must conform to the following requirements:

(i) *Wood sash.* Windows consisting of plain or wire glass panes set in wood sash must be protected by iron bars and solid shutters;

(ii) *Steel sash.* Windows consisting of wire glass panes not larger than 6 by 10 inches, set in metal sash must be protected by iron bars;

(iii) *Detention type.* Windows may be of the detention type, consisting of solid steel frame, sash, and grille (over the ventilating portion), combined in one unit and erected in one piece, equipped with wire glass panes not larger than 6 by 10 inches.

(b) *Opening onto fire escape.* Windows opening onto a fire escape shall be protected by solid metal shutters, securely hinged and equipped with facilities for locking on the inside with a Government lock. Iron bars will not be required on such windows.

(c) *Extension of requirements.* The Commissioner or district supervisor may require any other windows in the cistern and rectifying rooms to be protected by iron bars or shutters, or both, when

deemed necessary to safeguard the spirits.

(d) *More than 12 feet from ground.* All windows more than 12 feet from the ground and not subject to the provisions of paragraphs (a) and (b) of this section must be securely constructed and so arranged and equipped that they may be securely fastened on the inside.

(e) *Set in casement.* All windows must be securely set into the window casement in such a manner as to prevent ready removal.

(f) *Sash locks.* All window sashes must be provided with sash locks or other suitable fasteners.

(g) *Shutters.* The shutters must be solid and substantially constructed of metal or wood, and must be fastened inside of the room or building and so secured that they cannot be opened from the outside.

(h) *Iron bars.* The iron bars must be not less than three-fourths of an inch in diameter, placed perpendicularly in the windows or walls, not more than 5 inches apart from center to center, and reinforced by iron cross bars not more than 36 inches apart. All bars and cross bars must be securely fastened to the window frames or embedded in the walls in such a manner as to prevent their removal and to afford proper security.

(53 Stat. 314; 26 U. S. C. 2820)

§ 183.57 *Other windows.* Other windows of distillery buildings must be securely constructed and so arranged and equipped that they may be securely locked and fastened on the inside.

§ 183.58 *Skylights, monitors, pent-houses, etc.* Skylights, monitors, pent-houses, and similar openings will be regarded as windows and treated as such, except that shutters will not be required.

§ 183.59 *Ventilators.* Small openings in outside walls of distillery buildings, and in the ground floors and the roofs thereof, for ventilation or heating purposes, will be permitted, provided they are protected by substantial metal gratings not lighter than No. 6 gauge and having openings not larger than one-half inch, securely attached to or embedded in the floor, wall, or roof. Where such openings in the walls, floors, and roofs of cistern rooms are larger than 6 by 6 inches, they shall be further protected by iron bars. Such openings will not be permitted in walls which separate the distillery from contiguous premises.

§ 183.60 *Drains.* Openings in floors will be permitted for drainage or sewage, provided they are permanently connected to the sewer system and protected in the same manner as ventilators.

§ 183.61 *Meal room.* If meal is to be stored on the distillery premises, the distiller must provide for the purpose a suitable room constructed in accordance with the applicable provisions of §§ 183.50-183.60, except that where substantially constructed bins of sufficient capacity, all openings of which may be closed and secured with Government locks, are installed for the storage of meal, a separate meal room need not be

provided. All doors of the meal room must be equipped for locking on the inside except the entrance door, which must be equipped for locking on the outside with a Government lock. Windows and similar openings, if any, must be so equipped that they may be closed and securely fastened on the inside. Hoppers, chutes, conveyors, pipes, or openings in the walls, floor, or ceiling of the meal room used for the conveyance of meal from the meal room to the mash tubs, must be so constructed that they may be closed within the meal room and locked with Government locks: *Provided*, That where a hopper extends through the floor of the meal room, the outlet thereof may be locked outside of the meal room, if the hopper is securely covered and the inlet thereof is locked within the meal room.

§ 183.62 *Granary*. If the granary is located on the distillery premises it must be so constructed that the doors and other openings thereof may be closed and securely fastened on the inside, except the entrance door, which will be equipped for locking on the outside with a Government lock. If the granary is not situated on the distillery premises, but adjoins the distillery, the granary must be separated from the distillery on a direct vertical line by a solid and unbroken wall of substantial construction, except that an opening sufficient for the passage of grain chutes or pipe lines will be permitted in such wall. Such chutes or pipe lines shall be equipped with facilities for locking with Government locks at a suitable place on the distillery premises.

§ 183.63 *Fermenting room or building*. The distiller must provide on the distillery premises a fermenting room or building in which shall be located the fermenting tubs or tanks: *Provided*, That where closed tanks are used they need not be located in a room or building. Where a fermenting room is provided, it may be located in the distilling building and have direct communication with other portions of such building. If carbon dioxide is recovered, the necessary purifiers, scrubbers, and wash-water receiving tanks should be located in the fermenting room or building or in an adjoining room or building.

§ 183.64 *Rectifying room*. Where distilled spirits are rectified, purified, or refined in the course of original and continuous distillation, and the apparatus or equipment used for the purpose is such that it cannot be securely locked, the distiller must provide a suitable rectifying room or building in which shall be located such apparatus and equipment. Suitable tanks must be provided therein for the reception of spirits to be so treated. The rectifying room or building shall be constructed in accordance with the applicable provisions of §§ 183.50-183.60. No door, window, or other opening (except necessary openings for approved pipe lines) leading from the rectifying room into any other building, except the distilling building, will be permitted. Each door must be equipped with a substantial hasp and staple for the reception of a Government lock. A sign will be placed over the door

of the rectifying room bearing the words "Rectifying Room."

§ 183.65 *Cistern room*. The distiller must provide a cistern room or building, in which shall be located the receiving cisterns. The cistern room or building must be constructed in accordance with the applicable provisions of §§ 183.50-183.60. No door, window, or other opening (except necessary openings for approved pipe lines) leading into the distillery or into any other room or building will be permitted. The doors and other openings must lead into the yard connected with the distillery. All doors of the cistern room or building shall be equipped for locking on the inside with Government locks, except the entrance door, which shall be equipped for locking on the outside with a Government seal lock. The cistern room must be well lighted and of sufficient size to permit the weighing, marking, and branding of the spirits to be done conveniently, and to accommodate the necessary equipment, including a desk and chairs for the use of Government officers in preparing their reports. A sign must be placed over the entrance door of the cistern room bearing the words "Cistern Room." Where more than one cistern room is provided, each such room will be given an alphabetical designation as "A," "B," etc.

(53 Stat. 314; 26 U. S. C. 2820)

§ 183.66 *Temporary storage room*. Where spirits, after being drawn from the receiving cisterns into packages, are to be temporarily retained on the distillery premises pending tax-payment or removal for deposit in an internal revenue bonded warehouse off the distillery premises, as authorized by § 183.516, the distiller must provide a separate room in the cistern room for the temporary storage of such packages. The construction of such temporary storage room must conform to the provisions of this part governing the construction of the cistern room. The entrance door of the storage room shall open into the other part of the cistern room and be so constructed that it may be securely locked with a Government lock. Where another door is provided, it must lead into the yard connected with the distillery and be so constructed that it may be securely locked on the inside with a Government lock, and will be used for the removal of spirits temporarily stored in the room. If such other door is not provided, spirits may not be removed from the temporary storage room through the other portion of the cistern room while packages are being filled therein.

§ 183.67 *Empty container storeroom*. If empty packages are to be stored on the distillery premises a separate room or building must be provided for such purpose. Such room or building shall not have any means of interior communication with any other room or building used in connection with the production or storage of distilled spirits. This room or building may be used for general cooperative purposes.

§ 183.68 *Government office*. The distiller shall provide and maintain on the distillery premises, for the exclusive use of Government officers, a securely con-

structed, well-lighted, heated, and ventilated office of suitable dimensions. The Government office shall be equipped with toilet and lavatory facilities, and with a suitable number of desks, chairs, file cases, and such other furniture as may be necessary for the keeping of records and the preparation of reports. The Government office shall also be provided with running water, tables, and shelves for use in connection with the testing of beer and slop, unless suitable laboratory facilities are available to Government officers elsewhere on the premises. The door of the Government office shall be equipped with a cylinder type lock and a sufficient number of keys therefor shall be furnished the district supervisor for the use of Government officers. Where deemed necessary to afford adequate security to Government property, the district supervisor may require the windows of the Government office to be protected by shutters or iron bars, and the door to be so equipped that it may be securely fastened with a Government lock. A sign bearing the words "Government Office" must be placed over the entrance door.

§ 183.69 *Government cabinet*. There shall be provided in the Government office a metal cabinet of adequate strength and size, suitably equipped for locking with a Government seal lock, for use in safeguarding Government locks, keys, seals, and other Government property, and stamps in the custody of Government officers. Each such cabinet shall be subject to approval by the district supervisor.

SUBPART E—SIGN

§ 183.80 *Posting of sign*. The distiller shall place and keep conspicuously on the outside and at the front of the distillery where it can be plainly seen, a sign exhibiting in plain and legible letters, painted in oil colors or glazed, not less than three inches in height and of a proper and proportionate width, the name of the distiller and the words "Registered Distillery," followed by the registered number of the distillery.

(53 Stat. 318; 26 U. S. C. 2831)

SUBPART F—FENCES OR WALLS AND GATES

§ 183.85 *Construction*. No fence or wall of a height greater than 5 feet shall be erected or maintained around the premises of any distillery, except that the district supervisor may authorize the construction and maintenance of a fence or wall of a height greater than 5 feet around the distillery in any case in which, in his opinion, such higher fence or wall is necessary to give adequate protection from trespassers.

(53 Stat. 316, 373, as amended; 26 U. S. C. 2826, 3170)

§ 183.86 *Special application*. Where the distiller desires to construct or maintain a fence or wall of a greater height than 5 feet around the distillery, he shall file with the district supervisor a special application therefor, in triplicate, giving a complete description of the fence or wall, including information as to materials, construction, height, and number of gates, and stating the reasons for the construction or maintenance of such

fence or wall. The district supervisor will take action on such special application in accordance with the procedure prescribed in § 183.292.

(53 Stat. 316, 373, as amended; 26 U. S. C. 2826, 3170)

§ 183.87 *Keys to gates.* The distiller shall furnish the district supervisor as many keys to the gates or doors of the fence or wall around the distillery as may be required from time to time, in order to render the distillery readily accessible to Government officers.

(53 Stat. 316, 373, as amended; 26 U. S. C. 2826, 3170)

SUBPART G—EQUIPMENT

§ 183.90 *Laboratory apparatus.* The distiller shall provide for the use of the Government officers a Kjeldahl or other distilling unit of sufficient capacity to distill samples of beer and slop, a Juerst, Lefco, or other approved ebulliometer, and other laboratory apparatus and equipment necessary for determining the alcoholic content of the beer and slop. The distilling unit shall be installed in a suitable location approved by the district supervisor. Where the distiller maintains a laboratory which, in the opinion of the district supervisor, is properly equipped for making such tests, the distiller may make such facilities available to Government officers in lieu of providing additional apparatus and equipment.

(53 Stat. 307, 312; 26 U. S. C. 2808, 2817)

§ 183.91 *Scales.* The distiller must provide in the cistern room suitable and accurate scales for weighing packages of distilled spirits. The distiller must also provide on the distillery premises suitable and accurate scales for the weighing of grain and other non-liquid distilling materials received and used: *Provided*, That where the distiller receives shipments of materials by rail or motor carrier, the shipper's weights appearing on the bill of lading or invoice may be recorded as the amount received, and in such cases, track or truck scales for weighing materials received need not be furnished. Beams or dials of scales used to weigh packages must indicate weight in half-pound graduations.

(53 Stat. 307, 310; 26 U. S. C. 2808, 2841)

§ 183.92 *Weighting tanks.* Where distilled spirits are to be removed from the cistern room by pipe line for any authorized purpose as provided by this part, the distiller must provide in the cistern room one or more suitable weighing tanks constructed in accordance with the provisions of § 183.93 unless the receiving cisterns are mounted on scales, or unless such removals are limited to transfer of spirits to a weighing tank on the same or contiguous premises as provided by § 183.517. Where heads and tails are to be removed in tank cars for denaturation, the distiller must provide in the distilling building a suitable weighing tank of like construction; except that such weighing tank will not be necessary in the distillery building where suitable weighing tanks are provided in the cistern room and heads and tails are to be conveyed by fixed pipe lines, con-

structed in accordance with § 183.111, from the heads and tails tanks to the cistern room weighing tanks and gauged therein. The beams or dials of tank scales must be graduated to enable readings to be made as follows: to the nearest one-half pound for scales having a capacity not to exceed 2,000 pounds; to the nearest 1 pound for scales having a capacity of over 2,000 pounds, but not exceeding 6,000 pounds; to the nearest 2 pounds for scales having a capacity over 6,000 pounds, but not exceeding 20,000 pounds; to the nearest 5 pounds for scales having a capacity over 20,000 pounds, but not exceeding 50,000 pounds; and to the nearest 10 pounds for scales having a capacity over 50,000 pounds. Except in the case of scales having a capacity of 2,000 pounds or less where spirits are to be gauged for taxpayment not less than twenty percentum of the total capacity of the weighing tank scale may be entered into the tank for gauging for determination of the tax: *Provided*, That lots of spirits weighing 1,000 pounds or less must be weighed on scales having one-half pound graduations. If molasses or other liquids are used as distilling material, suitable weighing or measuring tanks must be provided for determining the quantity thereof.

(53 Stat. 298, as amended, 307; 26 U. S. C. 2800, 2808)

§ 183.93 *Construction of weighing tanks.* Weighing tanks for distilled spirits shall be constructed of metal and shall be stationary and each such tank shall be equipped with a suitable measuring device whereby the contents will be correctly indicated. Each weighing tank shall be mounted on accurate scales and shall have plainly and legibly painted thereon the words, "Weighing Tank," followed by its serial number and capacity in gallons. The inlet and outlet pipe connections of each weighing tank must be fitted with valves so constructed that they can be secured with Government locks, and any other openings in such tanks must also be so constructed that they can be closed and similarly locked.

(53 Stat. 298, as amended, 307, 316; 26 U. S. C. 2800, 2808, 2823)

§ 183.94 *Test weights.* The distiller shall provide a set of ten 50-pound cast-iron test weights, which shall be certified by the National Bureau of Standards or State departments of weights and measures as conforming to Class "C" requirements of the National Bureau of Standards. If the distiller has provided such test weights at an internal revenue bonded warehouse operated by him on the same or contiguous premises, or at a rectifying plant on contiguous premises, he need not provide a separate set of weights for the distillery. All test weights shall be placed under the control and in the custody of the storekeeper-gauger in charge, who shall keep them under Government lock when not in use.

(53 Stat. 307; 26 U. S. C. 2808)

§ 183.95 *Furnace doors, steam and fuel lines.* The door of every furnace of every still or boiler located on the distillery premises must be so constructed that it may be closed and locked with a Government lock in such a manner as

will effectually prevent it from being opened and a fire lighted in the furnace or under the boiler: *Provided*, That where the stills are heated with steam and it is necessary to use the boilers for the generation of steam for other purposes during periods when distilling operations are suspended, the doors of the furnaces of such boilers need not be equipped for locking if the pipe lines used to convey steam from the boilers to the stills are provided with valves equipped for locking with Government locks at the point where they enter each still. Where the boilers used for generating steam for the operation of the distillery are located off the distillery premises, the pipe line used to convey the steam to the distillery must be equipped with a valve so constructed that it may be locked with a Government lock, either at the point where it enters the distillery premises or at the point of entrance to the stills. If the stills are operated with fuel conveyed to them by pipe line, such pipe line must likewise be equipped for locking.

(53 Stat. 315; 26 U. S. C. 2822)

§ 183.96 *Distilling material storage tanks.* If molasses or other liquid distilling materials are to be stored on the distillery premises, the distiller must provide substantially constructed tanks for the purpose. The inlets, outlets, and other openings of such tanks must be equipped for locking with Government locks. Such tanks need not be located in a room or building: *Provided*, That where spirits are received for redistillation, tanks used for storage thereof and pipe lines used in connection therewith must be installed and equipped in accordance with requirements of §§ 183.102 and 183.111.

(53 Stat. 318; 26 U. S. C. 2829)

§ 183.97 *Off-premises material conveyors.* Where distilling materials are conveyed to the distillery by chute, conveyor, or pipe line from adjacent premises, such chute, conveyor, or pipe line shall be equipped at a suitable place for locking with Government locks.

(53 Stat. 316, 318; 26 U. S. C. 2823, 2829)

§ 183.98 *Cookers and mash tubs.* Cookers and mash tubs must be so placed as to be easily accessible and subject to ready examination by Government officers. Each such cooker or mash tub must have painted thereon its designated use, as "Cooker" or "Mash Tub," followed by its serial number and capacity in gallons.

(53 Stat. 315; 26 U. S. C. 2822)

§ 183.99 *Fermenters.* Each fermenter must be constructed of wood, metal, concrete, or other suitable material, and so arranged as to permit proper examination thereof. Each fermenter must have plainly and legibly painted thereon the word, "Fermenter," followed by its serial number, and capacity in gallons, depth in inches, and, if of uniform dimensions and standing on end, the capacity per inch of depth. Where such tanks are of irregular dimensions the distiller shall furnish to the district supervisor a table, in duplicate, showing the capacity of the tank for each inch

of depth. The district supervisor will retain one copy of the table and forward the other to the storekeeper-gauger who will retain the same in the Government office. The distiller shall provide an accurate measuring rod marked in inches, or a steel tape, suitable for use in determining the contents of such tanks. When deemed necessary, the accuracy of the distiller's calibration of fermenters will be verified by Government officers.

(53 Stat. 315; 26 U. S. C. 2822)

§ 183.100 *Washwater receiving tanks.* If carbon dioxide is recovered, and the washwater is to be utilized in the manufacture of distilled spirits, there must be provided a sufficient number of washwater receiving tanks, which shall be constructed of metal. Each such tank shall be equipped with a suitable measuring device whereby the actual contents will be correctly indicated. There must be painted on each tank the words, "Washwater Receiving Tank," followed by its serial number and capacity in gallons. The outlet valve must be equipped for locking with a Government lock. If the washwater is not used in the manufacture of distilled spirits, as provided by § 183.427, washwater receiving tanks need not be provided.

(53 Stat. 318; 26 U. S. C. 2829)

§ 183.101 *Stills.* The stills must be of substantial construction and must have a clear space of not less than one foot around them. The steam or fuel line to each still shall be equipped with a valve so constructed that it may be locked with a Government lock when the distillery is suspended, as required by § 183.627. The drain and wash-out pipes of stills must also, wherever practicable, be equipped with valves so constructed that they may be locked with Government locks. If there is a furnace under the stills or doublers, the door thereto must, as provided in § 183.95, be so constructed that it may be secured with a Government lock. There must be a clear space of not less than two feet around every doubler and condenser or worm tank. The doubler and worm tanks must be elevated not less than one foot from the floor. Every still must be numbered, commencing with number 1, and have painted thereon its designated use, such as "Beer Still," "Doubler," etc., and its number and spirit producing capacity in proof gallons in 24 hours, computed in accordance with Subpart MM of this part. Where the still is insulated, or the manufacturer's serial number is otherwise obscured, such number will likewise be painted on the covering of the still.

(53 Stat. 315; 26 U. S. C. 2822)

§ 183.102 *General requirements for tanks.* All tanks used as receptacles for spirits between the outlet of the first condenser or worm and the receiving cisterns shall be constructed of metal, and shall be equipped with a suitable measuring device whereby the actual contents will be correctly indicated. Where such tanks are of irregular dimensions the distiller shall furnish to the district supervisor a table, in duplicate, showing the capacity of the tank for each inch of depth. The district supervisor will retain one copy

of the table and forward the other to the storekeeper-gauger who will retain the same in the Government office. All tanks must be so constructed as to permit proper examination thereof, and so arranged as to leave an open space of not less than three feet between the top and the roof or floor above. Where tanks are equipped with manholes or valves in the top which are required to be locked with Government locks, suitable walks or landings with steps or stairways leading thereto and providing ready access to such manholes or valves must be constructed. All tanks, such as low-wine, high-wine, heads and tails, fusel oil and distilled water tanks, and similar equipment, shall each have plainly and legibly painted thereon its designated use, serial number, and capacity in gallons. Manheads, inlets, and outlets of the tanks and all openings in the distilling apparatus and equipment, except column stills, whereby access may be had to the spirits must be provided with facilities for locking with Government locks or otherwise securely fastened or sealed: *Provided*, That distilled water storage tanks need not be so equipped unless a pipe line is connected therewith for the conveyance of distilled water to contiguous establishments, as provided in § 183.106. Tanks used as receptacles for spirits may be permanently connected with pipe lines for the conveyance thereto of air and also distilled water, but the distilled water pipe line must be affixed to the top of the tank, and may not extend into the tank. Such pipe lines must be equipped with a control valve which may be locked with a Government lock. Pipe lines used for the conveyance of air must also be equipped with a check valve located near the point of entry to the tank in order to effectively prevent any abstraction of spirits from the tank. Other pipe lines, except those used for the conveyance of spirits, may not be permanently connected with such tanks.

(53 Stat. 316, 318; 26 U. S. C. 2823, 2829)

§ 183.103 *Heads and tails tanks.* Every distiller desiring to collect heads and tails for destruction or removal for denaturation must provide for the purpose one or more tanks, each of which must be constructed and equipped in accordance with the provisions of § 183.102, and have painted thereon the words, "Heads and Tails Tank," followed by its serial number and capacity in gallons. The tanks must be so arranged that the distillate to be collected therein will pass from the still into the tank through continuous and securely closed, fixed pipes and vessels. The pipe lines connecting the tanks with stills or other apparatus must be constructed in accordance with § 183.111. Valves must be provided in the pipe lines and so arranged as to control completely the flow of distillate both into and out of each tank. The construction of the valves must be such that they can be secured with Government locks.

(53 Stat. 316, 318, 346; 26 U. S. C. 2823, 2829, 2916)

§ 183.104 *Unfinished spirits tanks.* Whenever a distillery established or operated under the regulations in this

part is to be operated alternately as such and as an industrial alcohol plant or fruit distillery in accordance with Subpart M of this part, and the distiller desires to retain unfinished spirits where the change in type of plant is to be temporary only, he must provide for the purpose one or more tanks, each of which must be constructed and equipped in accordance with the provisions of § 183.102 and have painted thereon the words, "Unfinished Spirits Tank," followed by its serial number and capacity in gallons. The tanks must be so arranged that the unfinished spirits to be collected therein will pass from the still into the tank through continuous and securely closed, fixed pipes and vessels. The pipe lines connecting the tanks with stills or other apparatus must be constructed in accordance with § 183.111. Valves must be provided in the pipe lines and so arranged as to control completely the flow of unfinished spirits both into and out of each tank. The construction of the valves must be such that they can be secured with Government locks.

(53 Stat. 316, 318; 26 U. S. C. 2823, 2829)

§ 183.105 *Fusel oil tanks.* Fusel oil tanks must be constructed and equipped in accordance with the provisions of § 183.102, and each such tank must have painted thereon the words, "Fusel Oil Tank," followed by its serial number and capacity in gallons. Tanks for the temporary storage of fusel oil, after the same has been tested, need not be inclosed in a room or building, but must be located on the distillery premises. Fusel oil tanks shall not be connected with any pipe line used for the conveyance of spirits. The pipe lines used in connection therewith must be constructed and arranged in accordance with the provisions of § 183.111. Pipe lines connected with fusel oil tanks must be provided with valves so arranged as to control the flow of fusel oil both into and out of the tanks, and so constructed that they may be secured with Government locks.

(53 Stat. 316, 318; 26 U. S. C. 2823, 2829)

§ 183.106 *Distilled water tanks.* Distilled water storage tanks shall be so located that their contents may be readily inspected by Government officers, and each such tank shall have painted thereon the words, "Distilled Water Storage Tank," followed by its serial number and capacity in gallons. Where distilled water is to be conveyed by pipe line to contiguous establishments operated under the internal revenue laws and regulations, the storage tanks from which the distilled water is to be so conveyed must be so constructed that any necessary openings therein may be closed and secured with a Government lock. The pipe line must be an independent one, without any connection with any other pipe, tank, vessel, or utensil on the distillery premises: *Provided*, That where distilled water is to be so conveyed from two or more distilled water storage tanks, the pipe line may be connected with such tanks by permanent manifold connections. The pipe line must be constructed of metal or other suitable material and exposed to view throughout its entire length. The valves, flanges, and other connections in

such pipe line on the distillery premises must be brazed, welded, or otherwise secured in such a manner that the pipe line and its connections cannot be detached or altered without showing evidence of tampering.

(53 Stat. 316, 318; 26 U. S. C. 2823, 2829)

§ 183.107 *Try boxes.* Try boxes must be provided and so constructed as to permit reading the proof of the spirits, as well as the temperature, without unlocking the same. Such boxes shall be substantially constructed, and shall be equipped for locking with a Government lock. Each try box must be provided with an overflow pipe to permit by-passing of the spirits around the valves controlling the flow from the try box to the receiving cisterns. The overflow pipe shall be brazed or welded to the pipe line leading to the low or high wine tanks or the receiving cisterns.

(53 Stat. 314, 318; 26 U. S. C. 2820, 2829)

§ 183.108 *Rectifying equipment.* Where spirits are rectified, purified, or refined, the pipes, percolators, vessels, tanks, and other apparatus used in purifying or refining spirits must be so constructed that the spirits will pass through the purifying process in their passage from the beer still to the receiving cisterns. Except as provided by § 183.64, the pipes, vessels, and other apparatus must be closed and continuous and all necessary openings must be so constructed that they may be closed and locked with Government locks. Except as provided by § 183.102, no permanent water pipe line shall be connected with the high-wine tanks, percolators, or other rectifying apparatus.

(53 Stat. 314, 318; 26 U. S. C. 2820, 2829)

§ 183.109 *Receiving cisterns.* The distiller must provide in the cistern room receiving cisterns having sufficient capacity to permit the efficient deposit, withdrawal and supervision of each type of distilled spirits produced daily in accordance with this part. The adequacy of the capacity of the receiving cisterns shall be determined by the district supervisor. Receiving cisterns must be constructed and arranged in conformity with the requirements of § 183.102, and, in addition thereto, such cisterns must be elevated not less than 18 inches from the floor, and so separated that Government officers may pass completely around each. Each receiving cistern must be equipped with a suitable measuring device whereby the actual contents will be correctly indicated, and shall have plainly and legibly painted thereon the words, "Receiving Cistern," followed by its serial number and capacity in gallons. The cisterns must not be connected with each other, except that a connecting pipe line will be permitted between them in order to prevent loss of spirits by overflow. Such connecting pipe line must be located as close to the top of each cistern as the construction thereof will permit, and it must be closed and all connections therein brazed or welded to prevent abstraction of spirits without showing evidence of tampering. A valve equipped for locking with a Government lock must be provided in such pipe line. Pipe lines connected with re-

ceiving cisterns must be brazed, welded, or otherwise secured and sealed, in such a manner that they cannot be detached or altered without showing evidence of tampering. Except as provided by § 183.102, pipe lines for the conveyance of water, air, or other substance than spirits, may not be permanently connected with receiving cisterns.

(53 Stat. 312, 314, 373, as amended; 26 U. S. C. 2817, 2820, 3170)

§ 183.110 *Stopcocks of receiving cisterns.* The stopcocks which control the flow of spirits into the receiving cisterns must be so arranged that the spirits may be run into any of the cisterns, and if the stopcocks are in the cistern room, they must be controlled by rods, the handles of which must extend into the distillery or through the wall to the outside of the cistern room and be under Government lock. If such stopcocks are outside of the cistern room, they must be securely boxed and the box locked with a Government lock. The storekeeper-gauger will keep the key to the Government locks which control the stopcocks of receiving cisterns in his possession. The flow of the spirits from one cistern to another will, however, be changed by the distiller under the immediate supervision of the storekeeper-gauger.

(53 Stat. 312, 314, 316, 373, as amended; 26 U. S. C. 2817, 2820, 2823, 3170)

§ 183.111 *Pipe lines.* The distilling apparatus and equipment must be closed and continuous, commencing with the first still in which the vapors rise and continuing with securely closed vessels and pipes to the receiving cisterns in which the finished product is deposited. All such pipe lines must be of a fixed and permanent character, constructed of metal, or other material affording necessary protection, and so arranged as to be exposed to view in their entirety. All valves, unions, flanges, and other detachable connections in the pipe lines of the distilling equipment from the point where the vapors rise in the beer still to the receiving tanks must be so secured by brazing, welding, fastening, and sealing, or locking with Government locks as to effectually prevent disconnection and access to the spirits. Pipe lines authorized by this part for use in the conveyance of spirits from the cistern room to establishments on the same or contiguous premises shall be constructed, secured, and exposed in like manner and shall be so arranged that each such pipe line can be completely emptied or drained after each transfer of spirits: *Provided*, That such pipe lines may be connected with weighing tanks by means of flexible metal hose with ends brazed or welded to the outlet of the tank and the pipe line, or by means of short, detachable, hose connections, if the end of the pipe line is fitted with a valve so constructed that it may be secured with a Government lock. Pipe lines may likewise be connected with railroad tank cars by means of short, detachable hose connections.

(53 Stat. 298, as amended, 312, 314, 318, 335, as amended; 26 U. S. C. 2800, 2820, 2823, 2829, 2883)

§ 183.112 *Additional requirements for pipe lines.* Where spirits are to be conveyed by pipe line to contiguous establishments as authorized by this part, a separate pipe line to each such establishment must be installed for the conveyance of the spirits: *Provided*, That the Commissioner may authorize the use of a single pipe line where proper manifold connections, affording adequate control of the spirits to each establishment, are provided in the pipe line. A pipe line must also be provided for loading or unloading tank cars, except as provided by §§ 183.435 and 183.520. Such pipe lines may be connected only to the tanks to or from which transfer of spirits is authorized, except, where two or more tanks are used for the same purpose, manifold connections may be used. Manifold connections must be equipped with valves which may be secured with Government locks and so arranged as to permit complete control of spirits into or out of each tank. There shall be painted on each pipe line extending to and from a manifold a legend showing the kind and serial number of the tank or the type and registry number of the contiguous establishment with which the pipe line is connected. Where there are separate pipe lines leading directly from a tank to a tank car loading zone or an establishment on the same or contiguous premises, a legend indicating the use of such pipe line or the type and registry number of the contiguous establishment shall be painted thereon. Pipe lines so used shall be kept painted in the colors required by § 183.116.

(53 Stat. 298, as amended, 312, 314, 318, 335, as amended; 26 U. S. C. 2800, 2820, 2823, 2829, 2883)

§ 183.113 *Preparation for sealing flanges.* Where flanges and other detachable connections in the pipe lines (other than unions or valves) are not secured by welding or brazing, and are not to be secured by Government locks, they must be prepared by the distiller for sealing with "cap" seals by one of the following methods:

(a) By applying a "castle" nut with a hole drilled through the bolt, so the sealing wire may be passed through like a cotter pin, two such nuts being applied to each flange, opposite each other, unless the flange is secured with an uneven number of bolts, in which case three such nuts will be applied at approximately equal distances apart;

(b) By drilling a small hole through both nut and bolt, two such bolts and nuts being drilled for each flange, opposite each other, unless the flange is secured with an uneven number of bolts, in which case three such nuts will be applied at approximately equal distances apart; or

(c) By drilling a hole through the corner of the head of the bolt and one through the corner of the nut so the two will be sealed together, two such bolts and nuts being drilled for each flange, opposite each other, unless the flange is secured with an uneven number of bolts, in which case three such nuts will be applied at approximately equal distances apart.

(53 Stat. 314, 316; 26 U. S. C. 2820, 2823)

§ 183.114 *Preparation for sealing unions.* Where unions in the pipe lines are

not secured by welding or brazing, and are not to be secured by Government locks, they will be prepared for sealing by enclosing the same in a metal box with holes for the sealing wire.

(53 Stat. 314, 316; 26 U. S. C. 2820, 2823)

§ 183.115 *Preparation for sealing valves.* Where small gate and globe valves in the pipe lines are not secured by welding or brazing, and are not to be secured by Government locks, they may be prepared for sealing by inclosing the packing nut and hood with a metal band or strap drawn tightly around the flange and fitted for reception of the sealing wire, or by drilling a hole in the packing nut so that sealing wire may be passed through and drawn around the pipe and sealed. Where valves have large flanges, such flanges may be sealed in the same manner as other flanges.

(53 Stat. 314, 316; 26 U. S. C. 2820, 2823)

§ 183.116 *Colors for pipe lines.* The pipe lines in the distillery used for conveying the following substances shall be kept painted in the colors indicated:

Black.....	Whisky, gin, rum or other finished spirits.
Blue.....	Vapor, singlings, high-wines and low-wines, or other unfinished spirits.
Red.....	Fermented mash or beer.
Gray.....	Molasses or other unfermented material.
Brown.....	Spent beer or slop.
Yellow.....	Fusel oil.
White.....	Water.
Aluminum...	Steam.
Orange.....	Air.
Olive green...	Carbon dioxide.

These colors are intended for such pipe lines only, and are prescribed for the purpose of distinguishing such pipe lines from each other, and from all other pipe lines on the premises which are painted, but for which colors are not prescribed. The painting in one of the prescribed colors, or a color similar thereto, of a pipe line for which a color is not prescribed is prohibited. Pipe lines for which colors are not prescribed may be painted in sections of contrasting colors.

(53 Stat. 315; 26 U. S. C. 2822)

§ 183.117 *Sufficient equipment required.* Whenever a distiller desires to produce in his distillery two or more kinds of spirits simultaneously, he must provide sufficient mash tubs, fermenters, distilling apparatus, receiving cisterns, and other equipment to permit the production thereof without the commingling of dissimilar spirits.

(53 Stat. 318; 26 U. S. C. 2829)

§ 183.118 *Details of construction and equipment.* Where details of construction and equipment are not covered by this part, such construction and equipment must afford the same degree of security and protection to the spirits in the distillery as is intended by the construction and equipment specifications in this part prescribed. The Commissioner may approve details of construction and equipment in lieu of those specified in this part where it is shown that it is impracticable to conform to the prescribed specifications, and the proposed construction and equipment will

afford as much security and protection as the construction and equipment prescribed. Where it is proposed to substitute construction and equipment for that for which specifications are prescribed, or where any doubt prevails in regard to the security and protection which will be afforded by construction and equipment not covered by this part, approval of the Commissioner should be first obtained.

§ 183.119 *Distilleries heretofore established.* Distilleries heretofore established may continue to operate if the present construction and equipment afford adequate security and protection to the revenue. The Commissioner or district supervisor may at any time require the distiller to make changes in construction and equipment conforming to the provisions of this part, if deemed necessary to safeguard the revenue or to permit more economical and efficient supervision by Government officers. All distilleries hereafter established, and changes in existing distilleries, must be in conformity with this part.

(53 Stat. 316, 373, as amended; 26 U. S. C. 2823, 3170)

SUBPART H—QUALIFYING DOCUMENTS

§ 183.125 *Notice, Form 27-A.* Every person engaged in the business of a distiller, or intending to engage therein, or who wishes to continue in such business on and after the 1st day of May in each year, must give notice of such intention on Form 27-A. This notice must be filed in triplicate with the district supervisor of the district in which the premises are located, before engaging in the business, and on May 1 of each year thereafter during continuance in such business. Except as provided in § 183.136 in the case of amended and supplemental notices all of the information indicated by the lines of the form and the instructions printed thereon or issued in respect thereto, and as required by the regulations in this part, shall be furnished. Notices on Form 27-A must be signed in accordance with the instructions printed on the form and sworn to before an officer authorized to administer oaths: *Provided*, That if the form officially prescribed for such notice contains therein a provision for verification by a written declaration that such notice is made under penalties of perjury, such notice shall be verified by the execution of such declaration, and such declaration so executed shall be in lieu of the oath required herein for verification. Such notices must be numbered serially, commencing with number 1 and continuing in regular sequence for all notices thereafter filed, whether annual, amended, or supplemental. All data, written statements, affidavits, and other documents submitted in support of the application shall be deemed to be a part thereof.

(53 Stat. 309, 373, as amended, 63 Stat. 667; 26 U. S. C. 2812, 3170, 3809)

§ 183.126 *Permit required.* Under the Federal Alcohol Administration Act and the regulations issued pursuant thereto (27 CFR, Part 1), any person, except an agency of a State or political subdivision thereof, or any officer or employee

of any such agency, intending to engage in the business of producing distilled spirits, is required to procure a permit therefor. Application for such permit should be filed with the district supervisor, at the time of filing the original notice, Form 27-A.

(49 Stat. 978; 27 U. S. C. 203)

§ 183.127 *Description of premises.* The lot or tract of land on which the distillery is situated must be described on Form 27-A by courses and distances, in feet and inches, with the particularity required in conveyances of real estate. If the distillery premises consist of two or more lots or parcels, the condition of the title to which is not the same, the entire distillery premises shall be first described, followed by a separate description by courses and distances, in feet and inches, of each such lot or parcel. The continuity of the distillery premises must be unbroken, except that the premises may be divided by a public street or highway, if parts of the premises so divided abut on such street or highway opposite each other. The premises may be similarly divided by a railroad right-of-way, if the railroad is a common carrier. In such cases, each tract of land constituting the distillery premises shall be described separately on the form.

(53 Stat. 309, 373, as amended; 26 U. S. C. 2812, 3170)

§ 183.128 *Description of buildings and rooms.* All buildings and rooms on the distillery premises, including the cistern room, shall be accurately described on Form 27-A. The description shall include the designated name of the building or room, which shall be according to its use, such as distillery building, cistern room, etc., the materials of which constructed, the dimensions thereof, the location of doors, windows, and other openings, and the manner in which they are secured and protected. Each floor of each building shall be described separately. If more than one building or room is used for the same purpose, the name of each shall include an alphabetical designation to distinguish it as "Fermenting Room A," "Fermenting Room B," etc.

(53 Stat. 309, 373, as amended; 26 U. S. C. 2812, 3170)

§ 183.129 *Description of fence or wall.* If the distillery premises are surrounded by a fence or wall, such fence or wall shall be separately described on Form 27-A. The description shall include information as to materials, construction, height, and the number of gates. If the height exceeds 5 feet, the form shall also show whether authority to construct or maintain such fence or wall has been obtained from the district supervisor.

(53 Stat. 309, 373, as amended; 26 U. S. C. 2812, 3170)

§ 183.130 *Fermenting capacity.* The estimated maximum quantity of each kind of material it is proposed to use that can be mashed in a day of 24 hours must be stated in the space provided therefor on Form 27-A. The estimated quantity of the material that can be

mashed daily will be based upon the capacity of the fermenters, using a maximum strength beer and a minimum fermenting period.

(53 Stat. 309, 373, as amended; 26 U. S. C. 2812, 3170)

§ 183.131 *Distilling capacity.* The estimated maximum number of proof gallons of spirits that can be distilled in a day of 24 hours must also be stated in the space provided therefor on Form 27-A. The estimated quantity of spirits that can be distilled daily will be based on the capacity of the stills and the use of a maximum strength beer. The capacity of stills will be computed in accordance with the rules set forth in Subpart MM of this part.

(53 Stat. 309, 373, as amended; 26 U. S. C. 2812, 3170)

§ 183.132 *Daily production.* The estimated maximum quantity of each kind of material that the distiller intends to mash in a day of 24 hours, and the estimated maximum quantity in proof gallons of spirits that will be produced from such materials, including spirits produced by redistillation pursuant to Subpart T of this part, in a like period shall be stated on Form 27-A. Where the distiller intends to mash different kinds of materials than those covered by Form 27-A, or a larger quantity of the specified materials than the maximum indicated on such form, or to produce a larger quantity of spirits than the maximum indicated on the form, he must file with the district supervisor an amended notice, Form 27-A, in triplicate, and, if the tax on the quantity of spirits to be produced during a period of 15 days will exceed the penal sum of the distiller's bond (if such penal sum is less than the maximum of \$100,000), a new or additional distiller's bond must be filed, as provided in § 183.159. Likewise, where the quantity of spirits actually produced during any period of 15 days exceeds the estimated maximum quantity to be produced during such period, the distiller must file an amended notice, on Form 27-A and, where required, a new or additional distiller's bond, in accordance with § 183.159.

(53 Stat. 309, 335, as amended, 373, as amended; 26 U. S. C. 2812, 2883, 3170)

§ 183.133 *Condition of title to premises.* The condition of the title to the distillery premises shall be shown on Form 27-A. If the distiller is not the owner in fee, unencumbered by any mortgage, judgment, or other lien, of the lot or tract of land on which the distillery is situated, the name and address of the owner of the fee and of any mortgagee, judgment-creditor, or other person having a lien thereon, shall be stated. Where the written consent of the owner of the fee and of mortgagees, judgment-creditors, or other lienors, is filed as provided in §§ 183.137-183.139, or where an indemnity bond is filed in lieu of such written consent, as provided in §§ 183.143, 183.147, 183.148 and 183.149, such fact, together with information as to the kind, date, and amount of the encumbrance and the balance due thereon shall be shown on the notice in connection with the statement of the

present condition of the title. In cases where an indemnity bond is filed, the date of the district supervisor's approval of the filing of such bond shall also be given.

(53 Stat. 298, as amended, 309, 311; 26 U. S. C. 2800, 2812, 2815)

§ 183.134 *Condition of title to apparatus and equipment.* The distiller's title to, or interest in, the distilling apparatus and equipment shall be shown on Form 27-A. If the distiller is not the owner of the distilling apparatus and equipment, unencumbered by any mortgage, judgment, or other lien, the name and address of the owner and of any mortgagee, judgment-creditor, conditional sales vendor, or other lienor shall be stated. Where the written consent of the owner and of the mortgagees, judgment-creditors, conditional sales vendors, or other lienors, is filed as provided in §§ 183.137-183.139, or where an indemnity bond is filed in lieu of such written consent, as provided in §§ 183.143, 183.147, 183.148 and 183.149, such fact, together with information as to the kind, date, and amount of the encumbrance and the balance due thereon, or, if the apparatus was purchased under a conditional sales contract, or other form of title retaining contract, the purchase price and the balance due, shall be shown in connection with the statement of the distiller's title to or interest in the property. In cases where an indemnity bond is filed, the date of the district supervisor's approval of the filing of such bond shall also be given.

(53 Stat. 298, as amended, 309; 26 U. S. C. 2800, 2812)

§ 183.135 *Distance from rectifying plant or vinegar factory.* If the distillery premises are situated more than 600 feet in a direct line from any premises authorized to be used for rectifying spirits, or from a vinegar factory using the vaporizing process, such fact shall be stated on Form 27-A. If the distance between the distillery premises and the premises of a rectifying plant is less than 600 feet in a direct line, there must be stated on Form 27-A, the name of the proprietor of the rectifying plant, the exact distance in feet and inches between the distillery and the rectifying plant, and whether the location of the distillery within such distance of the rectifying plant has been approved by the district supervisor. If such location of the distillery has been approved by the district supervisor, the date of such approval shall be given. If the distance between the distillery premises and a vinegar factory using the vaporizing process is less than 600 feet in a direct line, such fact, and the date of the establishment of the vinegar factory, shall be stated on the form.

(53 Stat. 309, 314, 319, 320, 373, as amended; 26 U. S. C. 2812, 2819, 2834, 2835, 3170)

§ 183.136 *Amended and supplemental notices.* Amended and supplemental notices on Form 27-A may be executed in skeleton form, except as to the items amended or supplemented. All other items which are correctly set forth in prior notices, and in which there has

been no change since the last preceding notice, may be incorporated in the amended or supplemental notice by reference to the respective notice previously filed in which the item is fully and correctly set forth. Such incorporation by reference shall be made by entering for each such item in the space provided therefor the statement "No change since filing Form 27-A, Serial No. _____" (the number being inserted), and the date of such form.

(53 Stat. 309, 373, as amended; 26 U. S. C. 2812, 3170)

§ 183.137 *Consent, Form 1602.* Where the distiller is not the owner in fee of the lot or tract of land on which the distillery is situated, unencumbered by any mortgage, judgment, lien, or other encumbrance, or is not the owner of the distilling apparatus and equipment, unencumbered by any mortgage, judgment, lien, or other encumbrance, he must file (except as provided in § 183.140), the written consent, Form 1602, of the owner and of any mortgagee, judgment-creditor, lienor, or other encumbrancer, conditional sales vendor, or prior lessee, that the premises or property may be used for the purpose of distilling spirits, subject to the provisions of law, and expressly stipulating that the lien of the United States for taxes and penalties shall have priority over any right, title, or interest of the person giving the consent, and that, in the case of the forfeiture of the premises or property, or any part thereof, the title to the same shall vest in the United States, discharged from any such right, title or interest.

(53 Stat. 311, 373, as amended; 26 U. S. C. 2815, 3170)

§ 183.138 *Execution of consent.* The consent shall be executed on Form 1602, in triplicate, in accordance with the instructions printed thereon, duly acknowledged before an officer authorized to take acknowledgment of deeds, properly recorded, and submitted to the district supervisor with the notice, Form 27-A, and made a part thereof. The acknowledgment and certificate of recordation shall be executed on all three copies of the form.

(53 Stat. 311, 373, as amended; 26 U. S. C. 2815, 3170)

§ 183.139 *New consent when required.* A new consent will be required for each year beginning on the first day of May, unless the consent is given for a definite period of time exceeding one year, in which event the consent should be given in terms to expire at the beginning of an annual period, May 1. If, after such consent is filed, the premises are extended and the distiller is not the owner in fee, unencumbered of the additional premises, or additional apparatus and equipment are installed and the distiller is not the owner thereof unencumbered, a consent on Form 1602 must be filed for such additional premises or apparatus and equipment. A new consent will also be required whenever there is a change of proprietorship, including a succession for a temporary period by a lessee or fiduciary, unless the consent procured by the predecessor specifically

covers operation of the premises by his successor or assigns. In the event of failure of such consent, the distiller will be no longer qualified, unless an indemnity bond on Form 3-A is filed.

(53 Stat. 311, 373, as amended; 26 U. S. C. 2815, 3170)

§ 183.140 Bond in lieu of consent. Where consent on Form 1602 cannot be obtained or where the distillery was sold at a judicial or other sale in favor of the United States, and there exists a right of redemption from such sale, the distiller may file in lieu of such consent, an indemnity bond, Form 3-A, as provided in § 183.141.

(53 Stat. 311, 373, as amended; 26 U. S. C. 2815, 3170).

§ 183.141 Permission required for filing bond, Form 3-A. Where the distiller cannot obtain the written consent of the owner of the fee of the distillery premises, and of any mortgagee, judgment-creditor, or other person having a lien thereon, or where he cannot obtain such consent of the owner of the distilling apparatus and equipment, and of any mortgagee, judgment-creditor, conditional sales vendor, or other lienor, and desires to file an indemnity bond, Form 3-A, in lieu of such consent, he shall file application, in triplicate, with the district supervisor for permission so to do.

(53 Stat. 311, 373, as amended; 26 U. S. C. 2815, 3170)

§ 183.142 Application. The application shall contain (a) an accurate description of the lot or tract of land on which the distillery is situated and of the distillery, the buildings, and the distilling apparatus thereon; (b) a full and clear statement of the condition of the title to the distillery premises and apparatus and equipment, including the name and address of the owner and of all mortgagees, judgment-creditors, conditional sales vendors, prior lessees, and other persons having liens thereon, the kind, date, and amount of each encumbrance, and the balance due thereon, and, in the case of apparatus or equipment purchased under a conditional sales contract, or other form of title retaining contract, the purchase price and the balance due; and (c) a full and clear statement of the reasons why the applicant cannot obtain the prescribed written consent. The district supervisor will take action on such application in accordance with the procedure prescribed in § 183.293.

(53 Stat. 311, 373, as amended; 26 U. S. C. 2815, 3170)

§ 183.143 Bond, Form 3-A. If the application is approved, the distiller shall execute bond on Form 3-A, in triplicate, in conformity with the applicable provisions of Subpart I of this part, and file the same with the district supervisor. The penal sum of the bond shall be equal to the appraised value of the lot or tract of land on which the distillery is situated, the distillery, the buildings, and the distilling apparatus. If, after such bond is filed, the value of the distillery premises, buildings, or distilling apparatus is increased by additional land, buildings, or distilling apparatus, an additional bond

on such form to cover the increase in value will be required: *Provided*, That if such increase in value is less than \$1,000, no additional bond will be required. In the event of a failure of bond on Form 3-A, the distiller will be no longer qualified, unless a new and satisfactory bond is filed.

(53 Stat. 311, 373, as amended; 26 U. S. C. 2815, 3170)

§ 183.144 Appraisal. The appraisal to determine the penal sum of the bond on Form 3-A shall be made by two or more competent persons designated by the district supervisor. The appraisers shall render to the district supervisor a report, in duplicate, showing separately the value of the land and buildings and the distilling apparatus, and containing a full and clear statement of the methods employed by them in determining their valuations. The appraisal shall be at the expense of the distiller, unless it is made by Government officers.

(53 Stat. 311, 373, as amended; 26 U. S. C. 2815, 3170)

§ 183.145 Permission required for filing bond, Form 3. In any case (a) where the owner of a distillery or distilling apparatus erected prior to July 20, 1868, has only an estate for a term of years, or other estate less than fee simple in the lot or tract of land on which the distillery is situated, the evidence of title to which shall have been duly recorded prior to that date; or (b) in like case, where the lease or other evidence of title is held but was not required by the laws of the State to be recorded in order to be valid at the time of its execution; or (c) in any case of such prior erection where the title was then, and has continued to be, in litigation; or (d) in any case of such prior erection where such owner is possessed of the fee, but encumbered with a mortgage executed and duly recorded prior to July 20, 1868, and not due; or (e) in any case of such prior erection where the fee is held by a femme-covert, minor, person of unsound mind, or other person incapable of giving the prescribed consent, the distiller may, in lieu of such consent, give bond on Form 3, upon securing permission so to do.

(53 Stat. 377; 26 U. S. C. 3180)

§ 183.146 Application. Any distiller desiring to avail himself of the privilege of filing bond on Form 3, in lieu of the prescribed consent, must file application, in triplicate, with the district supervisor. The application must show that the distillery was erected prior to July 20, 1868, and contain a full and clear statement of the condition of the title or the nature of the incapacity of the holder of the fee, as the case may be. The district supervisor will take action on such application in accordance with the procedure prescribed in § 183.293.

(53 Stat. 377; 26 U. S. C. 3180)

§ 183.147 Bond, Form 3. If the application is approved, the distiller shall execute bond on Form 3, in triplicate, in conformity with the applicable provisions of Subpart I of this part, and file the same with the district supervisor. The penal sum of the bond shall be equal

to the appraised value of the lot or tract of land on which the distillery is located, together with the buildings and distilling apparatus. If, after such bond is filed, the value of the distillery premises, buildings, or distilling apparatus is increased by additional land, buildings, or distilling apparatus, an additional bond on such form to cover the increase in value will be required: *Provided*, That if such increase in value is less than \$1,000, no additional bond will be required. The appraisal shall be made in accordance with the provisions of § 183.144. In the event of failure of bond on Form 3, the distiller will be no longer qualified, unless a new and satisfactory bond is filed.

(53 Stat. 377; 26 U. S. C. 3180)

§ 183.148 Bond in lieu of consent where premises of distillery erected prior to July 20, 1868, are increased. The distiller may likewise give bond on Form 3 in lieu of the written consent of the owner of the fee, in the case of a distillery erected prior to July 20, 1868, where the premises have since such date been increased by the addition of land or buildings adjacent or contiguous thereto not owned by the distiller in fee. If the distillery is one which the distiller owns in fee, or in respect to which he has procured the written consent of the owner in fee and all encumbrancers, the penal sum of the bond shall be equal to the appraised value of the addition to the premises. If the distillery is one which the distiller is entitled to operate under bond on Form 3, then the penal sum of such bond shall be equal to the appraised value of the whole distillery as increased by such addition.

(53 Stat. 377; 26 U. S. C. 3180)

§ 183.149 Bond in lieu of consent where distillery is sold for United States. Where a distillery is sold at a judicial or other sale in favor of the United States, the distiller may give bond on Form 3-A, in lieu of the consent of the person possessing the right of redemption, and of any mortgagee, judgment-creditor, or other lienor, and be allowed, upon complying with all other provisions of law and this part, to operate such distillery during the existence of the right of redemption from such sale. A distiller desiring to give bond in such case shall file application, in triplicate, with the district supervisor for permission so to do. The application shall contain a full and clear statement of the condition of the title, including the name and address of the person having the right of redemption and of all encumbrances, the kind, date, and amount of each encumbrance, the date of the sale, and the date of expiration of the right of redemption. The penal sum of the bond shall be equal to the appraised value of the lot or tract of land on which the distillery is situated, together with the buildings and distillery apparatus. If, after such bond is filed, the value of the distillery premises, buildings, or distilling apparatus is increased by additional land, buildings, or distilling apparatus, an additional bond on such form to cover the increase in value will be required: *Provided*, That if such increase in value is less than \$5,000, no additional bond will be required. The

appraisal shall be made in accordance with the provisions of § 183.144.

(53 Stat. 311, 373, as amended; 26 U. S. C. 2815, 3170)

§ 183.150 *Certificate of title.* The distiller shall submit a certificate and, when required, an abstract, in triplicate, of the title to the distillery premises, prepared by a person authorized by the laws of the State in which the distillery is located to prepare such documents. The document must contain an accurate description of the distillery premises corresponding to that set forth in the distiller's notice, and any liens or other encumbrances on the property must be fully described. Such certificate shall accompany the distiller's notice and be made a part thereof.

(53 Stat. 298, as amended, 311, 373, as amended; 26 U. S. C. 2800, 2815, 3170)

§ 183.151 *Corporate documents.* There must be submitted with, and made a part of the original or initial notice on Form 27-A, given by a corporation to engage in the business of a distiller, properly certified copies, in triplicate, of the following documents:

(a) Articles of incorporation and any amended articles of incorporation.

(b) Certificate of incorporation.

(c) Certificate authorizing corporation to operate in State where distillery is located, if other than that in which incorporated.

(d) Extracts of minutes of meetings of stockholders, showing election of directors.

(e) By-laws.

(f) Extracts of the minutes of meetings of the board of directors, showing the election of officers.

(g) Extracts of the minutes of meetings of the board of directors, authorizing certain officers or other persons to sign for the corporation.

(h) List of the names and addresses of the officers and directors.

(i) List of stockholders, as provided in § 183.152.

(53 Stat. 309, 373, as amended; 26 U. S. C. 2812, 3170)

§ 183.152 *List of stockholders.* In the case of corporations and similar legal entities, there must be submitted with Form 27-A, at the commencement of business and annually thereafter on May 1, a list of the names and addresses of all stockholders and other persons interested in the corporation or other legal entity and the amount and nature of the stockholding or other interest of each, whether such interest appears in the name of the interested party or in the name of another for him: *Provided*, That where more than 100 persons are interested in the corporation or other legal entity as stockholders or otherwise, there need be furnished only the names and addresses and the amounts and nature of the stockholding or other interest of the 100 persons having the largest ownership or other interest in each of the respective classes of stock or other interest, except where more complete information shall be specifically required by the Commissioner or the district supervisor: *And provided further*, That where there has been no change in the stock-

holders and other persons interested in the corporation or other legal entity, or in the extent of the stockholding or other interest of such persons, the distiller may furnish, in connection with the annual notice a certified statement, in triplicate, to that effect in lieu of the prescribed list. Where a corporation operates two or more distilleries or other plants situated in the same supervisory district, or wholly owns one or more subsidiaries operating distilleries or other plants so situated, and in connection with qualifying for the operation of one of such distilleries or plants files a list of stockholders and other persons interested, as prescribed herein, the filing of an additional list for each distillery will not be required, provided that in lieu of such additional list there is submitted with the distiller's notice, Form 27-A, a certificate, in triplicate, definitely identifying the corporation and plant with whose notice the list of stockholders and other persons interested is filed, and giving the date of the filing thereof.

(53 Stat. 309, 373, as amended; 26 U. S. C. 2812, 3170)

§ 183.153 *Affidavit.* In the case of a corporation, there must be submitted with each list of stockholders an affidavit, in triplicate, executed by an officer of the corporation authorized so to do, showing the number of shares of each class of stock or other evidence of ownership, such as voting trust certificates, authorized and outstanding, the par value thereof, and the voting rights of the respective owners or holders, and certifying to the correctness of the list of stockholders or the statement authorized to be furnished with the notice in lieu of such list. In the case of an individual owner, copartnership, or association, there must be submitted with Form 27-A, at the commencement of business and annually thereafter on May 1, an affidavit, in triplicate, giving the name of every person interested or to be interested in the distillery, whether such interest appears in the name of the interested party or in the name of another for him.

(53 Stat. 309, 373, as amended; 26 U. S. C. 2812, 3170)

§ 183.154 *Articles of copartnership or association.* In the case of a copartnership or association, a certified copy, in triplicate, of the articles of copartnership or association, if any, and, where the business is to be conducted under a firm or trade name, a trade name certificate or statement in lieu thereof, in accordance with § 183.223, shall be submitted with and constitute a part of the notice, Form 27-A.

(53 Stat. 309, 373, as amended; 26 U. S. C. 2812, 3170)

§ 183.155 *Power of attorney, Form 1534.* If the notice or other qualifying documents are signed by an attorney in fact for an individual, partnership, association, or corporation, or by one of the members for a copartnership or association, or, in the case of a corporation, by an officer or other person not authorized to sign by the corporate documents described in § 183.151, such notice or other qualifying documents must be

supported by a duly authenticated copy of the power of attorney conferring authority upon the person signing the document to execute the same. Such powers of attorney will be executed on Form 1534, in triplicate, and submitted to the district supervisor.

(53 Stat. 309, 373, as amended; 26 U. S. C. 2812, 3170)

§ 183.156 *Execution of power of attorney.* Where the principal giving the power of attorney is an individual, it must be executed by him in person, and not by an agent. In the case of a copartnership or association, powers of attorney authorizing one or more of the members, or another person, to execute documents on behalf of the copartnership or association must be executed by all of the members constituting the copartnership or association. However, if one or more members less than the whole number constituting the copartnership or association have been delegated the authority to appoint agents or attorneys in fact, the power of attorney may be executed by such member or members, provided it is supported by a duly authenticated copy, in triplicate, of the document conferring authority upon the member or members to execute the same. Where, in the case of a corporation, powers of attorney are executed by an officer thereof, such documents must be supported by triplicate copies of the authorization of such officer so to do, certified by the secretary or assistant secretary of the corporation, under the corporate seal, if any, to be true copies.

(53 Stat. 309, 373, as amended; 26 U. S. C. 2812, 3170)

§ 183.157 *Duration of power of attorney.* Powers of attorney authorizing the execution of documents on behalf of a person engaged in, or intending to engage in, the business of a distiller shall continue in effect until written notice, in triplicate, of the revocation of such authority is received by the district supervisor, unless terminated by operation of law.

(53 Stat. 309, 373, as amended; 26 U. S. C. 2812, 3170)

§ 183.158 *Bond, Form 30.* Every person intending to commence or to continue the business of a distiller shall, upon filing his notice of such intention, Form 27-A, and before proceeding with such business, and on the 1st day of May of each succeeding year, execute bond on Form 30, in triplicate, in conformity with the provisions of Subpart I of this part and file the same with the district supervisor.

(53 Stat. 310, 373, as amended; 26 U. S. C. 2814, 3170)

§ 183.159 *Penal sum.* The penal sum of the distiller's bond, Form 30, shall be not less than the amount of the internal revenue tax at the rate prescribed by law on the maximum quantity of distilled spirits that will be distilled in the distillery during a period of 15 days of 24 hours each, but in no case shall the penal sum of the bond be less than \$5,000 or greater than \$100,000. Where the distiller has not furnished bond in the maximum penal sum of \$100,000 and he

intends to produce a larger quantity of spirits than that covered by his bond, he must file a new or additional bond in a sufficient penal sum to cover the tax on the increased quantity to be produced. Likewise, where the quantity of spirits actually produced during any period of 15 days exceeds the penal sum of the bond on file, if in less than the maximum penal sum, the distiller must furnish immediately a new or additional bond in a sufficient penal sum, effective as of the beginning of such period. If an additional bond is furnished in either case, it must be in accordance with § 183.189.

(53 Stat. 310, 373, as amended; 26 U. S. C. 2814, 3170)

§ 183.160 *Registry of stills, Form 26.* Every person having in his possession or custody, or under his control, any still or distilling apparatus set up must register the same with the district supervisor for the district in which it is located, on Form 26, immediately it is set up in accordance with the instructions on the form. Such registration shall be verified in the manner prescribed in § 183.125 with respect to notice on Form 27-A.

(53 Stat. 308, 373, as amended; 26 U. S. C. 2810, 3170)

§ 183.161 *Plat and plans.* Every person intending to engage in the business of a distiller must submit to the district supervisor with his notice, Form 27-A, an accurate plat of the distillery premises and accurate plans of the buildings, apparatus, and equipment thereon, in triplicate, conforming to the requirements of Subpart J of this part.

(53 Stat. 312, 373, as amended; 26 U. S. C. 2810, 3170)

§ 183.162 *Statement of process.* There must be submitted to the district supervisor with the distiller's original notice, Form 27-A, a statement of process, in triplicate. Upon any change in the process, a new statement, in triplicate, must be filed with the district supervisor. Reference by date to the current statement of process must be incorporated in each annual notice, Form 27-A. The statement of process should present a step by step description of the mashing, fermenting, distilling, purifying, and refining processes used in the production of each type of distilled spirits. It must show specifically the kind and approximate quantity, or proportion of all nonalcohol producing materials or substances added to the yeast mash or beer for the purpose of providing yeast food, or for inhibiting the action of wild yeast, or for any other purpose, and all materials used for purifying, refining, or otherwise treating the spirits. Samples of any such material or substance will be prepared and furnished to the district supervisor, upon request, for analysis by Government chemists. Materials or chemicals which are volatile, and would remain incorporated with the finished spirits after final distillation, may not be used, except that juniper berries and other aromatics may be used in the production of gin.

(53 Stat. 373, as amended, 391; 26 U. S. C. 3170, 3254)

§ 183.163 *Additional information.* The Commissioner or the district supervisor may at any time, in his discretion, require the distiller to furnish such additional information as he may deem necessary.

§ 183.164 *Instruments and papers made part of regulations.* The terms, conditions, and instructions contained in instruments and papers required to be furnished by law or this part are hereby made a part of the regulations in this part as fully and to the same extent as if incorporated herein.

SUBPART I—BONDS AND CONSENTS OF SURETY

§ 183.170 *General requirements.* Every person required to file a bond or consent of surety under this part shall prepare and execute it on the prescribed form, in triplicate, in accordance with this part and the instructions printed on the form, and shall submit it to the district supervisor.

(53 Stat. 310, 311, 336, 337, 339, 373, as amended, 377; 26 U. S. C. 2814, 2815, 2885, 2886, 2888, 3170, 3180)

§ 183.171 *Surety or security.* Bonds required by this part shall be given with surety or collateral security: *Provided*, That in any case where the distiller operates an internal revenue bonded warehouse on the distillery premises, and the distiller's bond, Form 30, is in the maximum penal sum of \$100,000, it may be accepted without surety if it is supported by the consent of the surety on the transportation and warehousing bond, Form 1571, which bond in such case shall be in the maximum penal sum of \$200,000. If bonds on Forms 30 and 1571 in the maximum penal sums stated are not given, separate bonds on said forms, each with surety or security, must be given in sufficient penal sums.

(53 Stat. 310, 311, 336, 337, 339, 373, as amended, 377; 26 U. S. C. 2814, 2815, 2885, 2886, 2888, 3170, 3180; 28 Stat. 279; 6 U. S. C. 6; 44 Stat. 122; 49 Stat. 22; 6 U. S. C. 15)

§ 183.172 *Corporate surety.* Bonds may be given with corporate surety authorized by the Secretary of the Treasury to become surety on Federal bonds, subject to the limitations prescribed by the Secretary in Treasury Department Form 356, Commissioner of Accounts, Section of Surety Bonds, which is issued semiannually, and subject to such amendatory circulars as may be issued from time to time.

(53 Stat. 310, 311, 336, 337, 339, 373, as amended, 377; 26 U. S. C. 2814, 2815, 2885, 2886, 2888, 3170, 3180; 28 Stat. 279; 6 U. S. C. 6; 36 Stat. 241; 6 U. S. C. 8)

§ 183.173 *Two or more corporate sureties.* A bond executed by two or more corporate sureties shall be the joint and several liability of the principal and the sureties: *Provided*, That each corporate surety may limit its liability in terms upon the face of the bond in a definite, specified amount, which amount shall not exceed the limitations prescribed for such corporate surety by the Secretary, as set forth in Treasury Department Form 356. When the sureties so limit their liability, the aggregate of such

limited liabilities must equal the required penal sum of the bond.

(53 Stat. 310, 311, 336, 337, 339, 373, as amended, 377; 26 U. S. C. 2814, 2815, 2885, 2886, 2888, 3170, 3180; 28 Stat. 279; 6 U. S. C. 6; 36 Stat. 241; 6 U. S. C. 8)

§ 183.174 *Powers of attorney.* Powers of attorney and other evidence of appointment of agents and officers to execute bonds on behalf of corporate sureties are required to be filed with, and passed upon by, the Commissioner of Accounts, Section of Surety Bonds, Treasury Department. Such powers and other evidence of appointment need not be filed with, or submitted to, district supervisors.

(53 Stat. 310, 311, 336, 337, 339, 373, as amended, 377; 26 U. S. C. 2814, 2815, 2885, 2886, 2888, 3170, 3180; 28 Stat. 279; 6 U. S. C. 6; 36 Stat. 241; 6 U. S. C. 8)

§ 183.175 *Individual sureties.* Bonds may be given with individual sureties, of which there must be not less than two, each of whom must qualify by executing Form 33, in triplicate. In the case of bonds given on Form 3 in accordance with the provisions of §§ 183.147 and 183.148, individual sureties are required by section 3180, I. R. C., to be residents of the collection district or county, or of an adjoining county, in the same State in which the distillery is located. In the case of other bonds required by the regulations in this part, individual sureties must be citizens of the United States and reside in the State in which the business of the principal is to be conducted. No person will be accepted as an individual surety in a State in which he is not authorized to become a surety.

(53 Stat. 310, 311, 336, 337, 339, 373, as amended, 377; 26 U. S. C. 2814, 2815, 2885, 2886, 2888, 3170, 3180)

§ 183.176 *Ownership of real property.* Each individual surety must own unencumbered real property, in fee simple, the appraised value of which, over and above any exemptions from execution allowed by the laws of the State, is equal to the penal sum of the bond. In the case of bonds given on Form 3, individual sureties must, under section 3180, I. R. C., not only be residents of the collection district or county, or of an adjoining county, in the same State in which the distillery is located, but the amount of unencumbered real property which they are required to own must also be situated in the said district or county, or adjoining county. In the case of other bonds required by this part, the amount of unencumbered real property which individual sureties are required to own must be located within the State where the business of the principal is to be conducted.

(53 Stat. 310, 311, 336, 337, 339, 377; 26 U. S. C. 2814, 2815, 2885, 2886, 2888, 3180)

§ 183.177 *Description of real property.* The real property must be described in the surety's affidavit, Form 33, with all of the formalities required in conveyances of real estate by the laws of the State in which it is situated.

(53 Stat. 310, 311, 336, 337, 339, 377; 26 U. S. C. 2814, 2815, 2885, 2886, 2888, 3180)

§ 183.178 *Execution of Form 33.* The surety's affidavit on Form 33 shall con-

tain all of the information required by this Part and the instructions printed on the form. The form shall be subscribed and sworn to before an officer duly authorized to administer oaths, and one copy thereof shall be attached to each copy of the bond to which it relates.

(53 Stat. 310, 311, 336, 337, 339, 377; 26 U. S. C. 2814, 2815, 2885, 2886, 2888, 3180)

§ 183.179 Certificate of title. There must be submitted with the surety's affidavit, Form 33, a certificate of title, in triplicate, showing that the surety has a fee simple title, free of encumbrances, to the realty described in the form.

(53 Stat. 310, 311, 336, 337, 339, 377; 26 U. S. C. 2814, 2815, 2885, 2886, 2888, 3180)

§ 183.180 Appraisal. There will also be submitted with Form 33 an appraisal, in triplicate, by two or more competent persons designated by the district supervisor for the purpose, showing separately the value of the land and buildings, and a full and clear statement of the method employed by them in determining their valuation. The appraisal shall be at the expense of the principal on the bond, unless it is made by Government officers.

(53 Stat. 310, 311, 336, 337, 339, 377; 26 U. S. C. 2814, 2815, 2885, 2886, 2888, 3180)

§ 183.181 Investigation. The district supervisor will cause an investigation to be made of all the facts stated in the surety's affidavit on Form 33 and supporting documents.

(53 Stat. 310, 311, 336, 337, 339, 377; 26 U. S. C. 2814, 2815, 2885, 2886, 2888, 3180)

§ 183.182 Requalification. The Commissioner or district supervisor may at any time, in his discretion, require the requalification of individual sureties on Form 33.

(53 Stat. 310, 311, 336, 337, 339, 377; 26 U. S. C. 2814, 2815, 2885, 2886, 2888, 3180)

§ 183.183 Interest in business. The surety, whether individual or corporate, must have no interest whatever in the business covered by the bond.

(53 Stat. 310, 311, 336, 337, 339, 377; 26 U. S. C. 2814, 2815, 2885, 2886, 2888, 3180)

§ 183.184 Deposit of collateral. Bonds or notes of the United States, or other obligations which are unconditionally guaranteed as to both interest and principal by the United States, may be pledged and deposited by principals as collateral security in lieu of individual or corporate sureties. District supervisors on receiving such bonds or notes, or other obligations, pledged and deposited by principals as collateral security in lieu of surety, shall deposit such securities in accordance with the requirements of Department Circular No. 154, revised (31 CFR, Part 225).

(44 Stat. 122, as amended; 49 Stat. 22; 6 U. S. C. 15)

§ 183.185 Consents of surety. Consents of surety to a change in the terms of a bond must be executed on Form 1533, in as many copies as are required of the bond which they affect, by the principal and all sureties with the same formality and proof of authority to exe-

cute as are required for the execution of bonds. Form 1533 will be used by obligors on collateral bonds as well as those on surety bonds. The Form 1533 must properly identify the bond affected thereby and state specifically and precisely what is covered by the extended terms thereof. If the surety is a corporation, the consent may be executed by an agent or attorney in fact duly authorized so to do by power of attorney filed by the surety with the appropriate district supervisor, or the consent may be executed by the home office officials of such corporate surety; except that, in cases where the saving of time is an element, the consent may be executed by an agent or attorney in fact where the home office officials, by specific direction, order its execution. A copy of such specific direction should be attached to each copy of such consent.

(53 Stat. 310, 311, 336, 337, 339, 377; 26 U. S. C. 2814, 2815, 2885, 2886, 2888, 3180)

§ 183.186 Approval required. No individual, firm, partnership, corporation, or association, intending to commence or to continue the business of a distiller, shall commence or continue such business until all bonds in respect of such business required by any provision of law have been approved.

(53 Stat. 311, 373, as amended; 26 U. S. C. 2815, 3170)

§ 183.187 Authority to approve. District supervisors are authorized to approve all bonds and consents of surety required by this part.

(53 Stat. 298, as amended, 310, 311, 336, 337, 339, 373, as amended, 377; 26 U. S. C. 2800, 2814, 2815, 2885, 2886, 2888, 3170, 3180)

§ 183.188 Cause for disapproval. Bonds or consents of surety submitted by any individual, firm, partnership, corporation, or association, in respect to the business of a distiller may be disapproved if the individual, firm, partnership, corporation, or association giving the same, or owning, controlling, or actively participating in the management of such business of the individual, firm, partnership, corporation, or association giving the same, shall have been previously convicted in a court of competent jurisdiction of (a) any fraudulent noncompliance with any provision of any law of the United States, if such provision relates to internal revenue or customs taxation of distilled spirits, wines, or fermented malt liquors, or if such an offense shall have been compromised with the individual, firm, partnership, corporation, or association upon payment of penalties or otherwise; or (b) any felony under a law of any State, Territory, or the District of Columbia, or the United States, prohibiting the manufacture, sale, importation, or transportation of distilled spirits, wine, fermented malt liquor, or other intoxicating liquor. The distiller's bond, Form 30, may also be disapproved if the situation of the distillery is such as would enable the distiller to defraud the United States.

(53 Stat. 310, 311; 26 U. S. C. 2814, 2815)

§ 183.189 Additional or strengthening bonds. In all cases where the penal sum of the bond on file and in effect is not

sufficient, computed as prescribed by law and this part, the principal may give an additional or strengthening bond in a sufficient penal sum, provided the surety thereon is the same as on the bond already on file and in effect; otherwise a new bond covering the entire liability will be required. Such additional or strengthening bonds, being filed to increase the bond liability of the principal and the surety, are in no sense substitute bonds, and the district supervisor will refuse to approve any additional or strengthening bond where any notation is made thereon intended, or which may be construed, as a release of any former bond, or as limiting the amount of either bond to less than its full penal sum. Additional or strengthening bonds must show the current date of execution and the effective date in the blank spaces provided therefor. Such bonds must have marked thereon, by the obligors at the time of execution, "Additional Bond," or "Strengthening Bond."

(53 Stat. 310, 311, 336, 337, 339, 373, as amended, 377; 26 U. S. C. 2814, 2815, 2885, 2886, 2888, 3170, 3180)

§ 183.190 New bond. A new bond may be required at any time in the discretion of the Commissioner or district supervisor. A new bond shall be required immediately in the case of the death or insolvency of an individual surety, or the insolvency of a corporate surety. Executors, administrators, assignees, receivers, trustees, or other persons acting in a fiduciary capacity, continuing or liquidating the business of the principal, must execute and file a new bond or obtain the consent of the surety or sureties on the existing bond or bonds. When, in the opinion of the Commissioner or the district supervisor, the interests of the Government demand it, or in any case where the security of the bond becomes impaired in whole or in part for any reason whatever, the principal will be required to give a new bond. Where a bond is found to be not acceptable, the principal shall be required to file immediately a new and satisfactory bond, or discontinue business forthwith.

(53 Stat. 310, 311, 336, 337, 339, 373, as amended, 377; 26 U. S. C. 2814, 2815, 2885, 2886, 2888, 3170, 3180)

§ 183.191 Superseding bond. Where a new bond is submitted by the principal to supersede a bond or bonds then in effect, and such superseding bond has been approved, notice of termination of the superseded bond may be issued as provided in Subpart P of this part. Superseding bonds must show the current date of execution and the date they are to be effective, and each such bond shall have marked thereon, by the obligors at the time of execution, "Superseding Bond."

(53 Stat. 310, 311, 336, 337, 339, 373, as amended, 377; 26 U. S. C. 2814, 2815, 2885, 2886, 2888, 3170, 3180)

SUBPART J—PLATS AND PLANS

§ 183.200 Plat and plans required. Every person intending to engage in the business of a distiller must, as provided in § 183.161, file an accurate plat and accurate plans of the distillery premises,

apparatus, and equipment, in triplicate, with the district supervisor.

(53 Stat. 312, 373, as amended; 26 U. S. C. 2816, 3170)

§ 183.201 *Preparation.* Every plat and plan shall be drawn to scale, and each sheet thereof shall bear a distinctive title, enabling ready identification. The cardinal points of the compass must appear on each sheet, except the elevational plans. The minimum scale of any plat will be not less than $\frac{1}{8}$ inch per foot. Each sheet of the original plat and plans shall be numbered, the first being designated number 1, and the other sheets numbered in consecutive order. Plats and plans shall be submitted on sheets of tracing cloth, opaque cloth, or sensitized linen. The dimensions of plats and plans shall be 15 by 20 inches, outside measurement, with a clear margin of at least 1 inch on each side of the drawing, lettering, and writing. Plats and plans may be original drawings, or reproductions made by the "ditto process," or by blue or brown line lithoprint, if such reproductions are clear and distinct.

(53 Stat. 312, 373, as amended; 26 U. S. C. 2816, 3170)

§ 183.202 *Depiction of distillery premises.* Plats must show the outer boundaries of the distillery premises by courses and distances, in feet and inches, in a color contrasting with those used for other drawings on the plat, and the point of beginning, with respect to its distance and bearings, from some near and well-known landmark, and must contain an accurate depiction of the building or buildings comprising the premises, and any driveway, public highway, or railroad right-of-way adjacent thereto, or connecting therewith. The depiction of the premises shall agree with the description in the notice, Form 27-A. If the distillery premises consists of two or more lots or parcels of land, the condition of the title to which is not the same, each such lot or tract shall be separately depicted by courses and distances, in feet and inches, and such lots or parcels shall be delineated or cross-hatched in contrasting colors. If two or more buildings are to be used, the designated name of each shall be indicated, and all pipe lines or other connections, if any, between the same, depicted. Where two or more buildings are used for the same purpose, the name of each such building shall include an alphabetical designation, beginning with "A," and they shall be so shown on the plat. All first floor exterior doors of each building on the premises will be shown on the plat. Except as provided in § 183.208, all pipe lines leading to or from the premises, the purpose for which used, and the points of origin and termination will be indicated on the plat.

(53 Stat. 312, 373, as amended; 26 U. S. C. 2816, 3170)

§ 183.203 *Rectifying plant within 600 feet.* Where a distillery is to be established on premises at a distance of less than 600 feet in a direct line from a rec-

tifying plant, the plat must show the relative location of such premises, all pipe lines and other connections, if any, between them, and the distance, in feet and inches, that they are from each other in a direct line. The outlines of the two premises must be shown in contrasting colors.

(53 Stat. 314; 26 U. S. C. 2819)

§ 183.204 *Contiguous premises.* Where an internal revenue bonded warehouse, rectifying plant, tax-paid bottling house, or other premises on which liquors are manufactured, stored, or sold, is contiguous to the distillery premises the plat must show the relative location of the distillery and such contiguous premises, and all pipe lines, if any, and other connections between them. The outlines of such contiguous premises and the distillery premises must also be shown in contrasting colors.

§ 183.205 *Floor plans.* The plans shall include a floor plan of each floor of each building, showing the general dimensions of the rooms and floors, and the location of all doors, windows, and other openings, and how such openings are protected. All fixed apparatus and equipment, except pipe lines, must be shown in their exact location on the floor plans, and their designated use indicated. Pipe lines may also be shown, if desired. In the case of stills, tanks, and similar equipment, the serial number and capacity shall also be shown.

(53 Stat. 312, 373, as amended; 26 U. S. C. 2816, 3170)

§ 183.206 *Pipe lines in colors.* The pipe lines must be shown on the plans in the colors in which they are required to be painted, as prescribed by § 183.116.

(53 Stat. 312, 373, as amended; 26 U. S. C. 2816, 3170)

§ 183.207 *Location of valves, flanges, locks, etc.* All valves, flanges, and other connections in pipe lines must be properly indicated on the plans: *Provided,* That where flanges, unions, or other connections in pipe lines are brazed, welded, or otherwise permanently secured in such a manner as to constitute a continuous, single pipe line, the location of such flanges, unions, or other connections, and the manner of securing the same, need not be shown on the plans. The location of all Government locks required to secure the apparatus and equipment, and the doors of rooms and buildings, must be indicated on the plans by the symbol "GL" at the points where the locks are to be attached.

(53 Stat. 312, 373, as amended; 26 U. S. C. 2816, 3170)

§ 183.208 *Pipe lines exempted.* Approved public or private utility service lines, such as sewers, electric or gas conduits or pipes, and approved sprinkler, refrigeration, or heating systems which have no connection with the distilling equipment or any apparatus or pipe line connected therewith, need not be shown on the plans, provided that the point of entry to the bonded premises shall be indicated on the plans.

(53 Stat. 312, 373, as amended; 26 U. S. C. 2816, 3170)

§ 183.209 *Elevational flow diagrams.* Elevational flow diagrams (plans) shall be submitted covering: (a) Distilling material system, (b) mashing and fermenting systems, (c) distilling systems, and (d) the cistern room system. Such diagrams or plans shall clearly depict all equipment in its relative operating sequence, and elevation by floors with all connecting pipe lines, valves, flanges (except as provided in § 183.207), Government locks, measuring devices, etc. The elevation by floors on the diagrams may be indicated by horizontal lines representing floor levels. All the flow diagrams as a unit must show the flow of the distilling material, and the resulting products, through the mills, mash tubs, fermenters, stills, doublers, try boxes, and other equipment, and the deposit and removal of the finished spirits from the cistern room. All major equipment, fermenters, stills, etc., must be identified on these plans as to number and use. The elevational flow diagrams must be properly identified, and so drawn that all fixed pipe lines, except those indicated by § 183.208 may be readily traced from beginning to end: *Provided,* That pipe lines leading to and from other buildings on the same or contiguous premises may be designated as to point of origin or termination. The direction of the flow of spirits through the pipe lines must be indicated on the flow diagram by arrows. Other types of plans that clearly depict the information required herein may be submitted in compliance with this section.

(53 Stat. 312, 373, as amended; 26 U. S. C. 2816, 3170)

§ 183.210 *Certificate of accuracy.* The plat and plans shall bear a certificate of accuracy in the lower right-hand corner of each sheet, signed by the distiller, the draftsman, and the district supervisor, substantially in the following form:

(Name of distiller)
 (Address)
 Approved _____
 (Date)
 (District Supervisor)
 Accuracy certified by:
 (Name and capacity—
 for the distiller)
 (Draftsman)
 Date _____, 19____
 Sheet No. _____

(53 Stat. 312, 373, as amended; 26 U. S. C. 2816, 3170)

§ 183.211 *Revised plats and plans.* The sheets of revised plats and plans shall bear the same number as the sheets superseded, but will be given a new date. Any additional plats and plans will be given a new number in consecutive order, or will be otherwise numbered and lettered in such manner as will permit the filing of the plats and plans in proper sequence.

(53 Stat. 312, 373, as amended; 26 U. S. C. 2816, 3170)

SUBPART K—REQUIREMENTS GOVERNING CHANGES IN NAME, PROPRIETORSHIP, CONTROL, LOCATION, PREMISES AND EQUIPMENT, AND IN THE TITLE TO THE DISTILLERY PROPERTY OR THE ENCUMBRANCE THEREOF

§ 183.220 General requirement. Under the law, notice in writing must be given, in the form prescribed by the Commissioner, to the district supervisor in case of any change in the location, form, capacity, ownership, agency, superintendency, or in the persons interested in the business of the distillery.

(53 Stat. 309, 373, as amended; 26 U. S. C. 2812, 3170)

CHANGE IN INDIVIDUAL, FIRM, OR CORPORATE NAME

§ 183.221 Amended notice, Form 27-A and amended basic permit. Where there is a change in the individual, firm, or corporate name of the distiller, the distiller must submit to the district supervisor an amended notice on Form 27-A, in triplicate, covering the new name, which notice must be approved before operations may be commenced under the new name. He must also procure from the district supervisor under the Federal Alcohol Administration Act an amended basic permit authorizing operation of the distillery under the new name.

(53 Stat. 309, 373, as amended; 26 U. S. C. 2812, 3170; 49 Stat. 978, as amended; 27 U. S. C. 203)

§ 183.222 Amended articles of incorporation, etc. Where there is a change in the corporate name of the distiller, he must submit to the district supervisor certified copies, in triplicate, of the amended articles of incorporation and the amended certificate of incorporation issued under the laws of the State in which incorporated, covering the change in the corporate name. If the operations are conducted in a State other than the State in which incorporated, there must also be submitted to the district supervisor certified copies, in triplicate, of the amended certificate issued under the laws of the State in which the operations are conducted authorizing the corporation to operate under its new name in such State. If other documents than those specified are required under the laws of the State to effect a change in the name of the corporation, certified copies, in triplicate, of such documents must be submitted with the notice, Form 27-A, in lieu of those specified.

(53 Stat. 309; 26 U. S. C. 2812)

§ 183.223 Amended articles of copartnership or association. Where there is a change in the name of the copartnership or association, the distiller will submit to the district supervisor certified copies, in triplicate, of the amended articles of copartnership or association, if any.

(53 Stat. 309; 26 U. S. C. 2812)

§ 183.224 Sign. Where there is a change in the individual, firm, or corporate name, the distiller will change the distillery sign to conform to the provisions of § 183.80.

(53 Stat. 318; 26 U. S. C. 2831)

§ 183.225 Branding and warehousing. Where there is a change in the individual, firm, or corporate name, the distiller will, upon receipt of the district supervisor's authorization, as provided in § 183.304, mark and brand and warehouse, or remove, under such new name the finished spirits produced thereunder.

(53 Stat. 333, 335, as amended; 26 U. S. C. 2878, 2883)

§ 183.226 Records. Where there is a change in the individual, firm, or corporate name, the distiller will keep records and submit reports covering operations under the new name as provided in § 183.648 in the case of operations under different trade names and styles.

(53 Stat. 321, 322; 26 U. S. C. 2841, 2844)

TRADE NAMES

§ 183.227 Basic qualification required. Where the distillery is to be operated under a trade name or style, or under a number of trade names or styles, the distiller must file with the district supervisor a letterhead application for approval of such name or names. The district supervisor will forward such applications to the Bureau for action by the Commissioner. If the Commissioner finds that the name or names may be used he will so advise the district supervisor. The distiller will be advised accordingly. He may then file with the district supervisor an amended Form 27-A as provided in § 183.136 for permission to operate under the trade name (only one) specifying the date operations are to begin, and if the additional name or style has not previously been specified in the Federal Alcohol Administration Act Permit, he must also procure from the district supervisor an amended basic permit. The district supervisor's action will be in accordance with § 183.304.

(53 Stat. 309; 26 U. S. C. 2812; 49 Stat. 978, as amended; 27 U. S. C. 203)

§ 183.228 Trade names certificate; amended articles of incorporation. It will be the responsibility of the distiller to comply with all state laws by filing certified copies of trade names and amended articles of incorporation where required. If no such certificate, or amended articles of incorporation are required, the distiller will furnish a statement to that effect.

§ 183.229 Sign. The distillery sign must be changed to conform to the provisions of § 183.80, unless operation under the trade name is to be temporary, in which event it will not be necessary to change such sign.

(53 Stat. 318; 26 U. S. C. 2831)

§ 183.230 Branding and warehousing. The finished spirits must be branded and warehoused under each trade name in which produced as provided in § 183.647.

(53 Stat. 333, 335, as amended; 26 U. S. C. 2878, 2883)

§ 183.231 Records. Appropriate entries must be made in the distillery records covering operations under each trade name, as provided in § 183.648.

(53 Stat. 321, 373; 26 U. S. C. 2841, 3171)

§ 183.232 Period of operations. Where the distillery is operated under

more than one trade name or style, the operation under each must be in multiples of 24 hours.

§ 183.233 Subsequent operations. The basic qualifying documents having once been filed by the distiller and approved by the district supervisor, the distiller will qualify for subsequent operations, that is, changing from one trade name to another trade name, or from a trade name to the principal, or vice versa, in accordance with the procedure prescribed in § 183.273.

CHANGES IN PROPRIETORSHIP

§ 183.234 Requirements of transfer. Where there is to be a change in the proprietorship of the distillery, the outgoing distiller must, preparatory to transfer of the business to the successor, comply with the requirements of §§ 183.235-183.240.

§ 183.235 Notice, Form 27-A. If the outgoing distiller is to discontinue permanently the business of distilling spirits, he will file with the district supervisor Form 27-A, in triplicate, stating thereon the purpose to be "Discontinuance of business," and giving the date of the discontinuance. If the outgoing distiller is to temporarily discontinue the business of distilling during operation of the distillery by the successor, the statement of the purpose on the notice shall conform to the provisions of § 183.270 (a).

(53 Stat. 309, 373, as amended; 26 U. S. C. 2812, 3170)

§ 183.236 Registry of stills. If the business is to be permanently discontinued, the distiller will file Form 26, in triplicate, in accordance with § 183.640.

§ 183.237 Notice of suspension. The distiller will file with the district supervisor Form 124, in duplicate, in accordance with Subpart Z of this part.

§ 183.238 Finished spirits. The distiller will draw off, brand and mark, and remove all finished spirits in the individual, firm, or corporate name, or trade name or style, under which they were produced.

(53 Stat. 333, 335, as amended; 26 U. S. C. 2878, 2883)

§ 183.239 Materials and unfinished spirits. If distilling materials and unfinished spirits are to be transferred to the successor, the distiller will file with the district supervisor Form 1614, in quadruplicate, in accordance with Subpart DD of this part. If the unfinished spirits and distilling materials are not to be so transferred, he must completely finish operations in accordance with the provisions of said subpart.

§ 183.240 Records. The distiller will make appropriate entries in the distillery records and submit reports in accordance with the provisions of § 183.673.

(53 Stat. 321, 322, 373; 26 U. S. C. 2841, 2844, 3171)

§ 183.241 Qualification of successor. Where there is a change in proprietorship, and the successor intends to continue operation of the plant as a registered distillery, he must comply with the requirements of §§ 183.242-183.248.

§ 183.242 *Lessee.* If the successor is a lessee, he must qualify in the same manner as the proprietor of a new distillery, regardless of the temporary nature of the tenancy, except that he may adopt the plat and plans of his predecessor as provided in § 183.246. The lessee must also file with the district supervisor certified copies, in triplicate, of the lease.

§ 183.243 *Other nonfiduciary successor.* If the change in proprietorship is brought about by any other means, except by the appointment of an administrator, executor, receiver, trustee, assignee, or other fiduciary, the successor must likewise qualify in the same manner as the proprietor of a new distillery, except that he may adopt the plat and plans of his predecessor as provided in § 183.246.

§ 183.244 *Fiduciary.* If the successor is an administrator, executor, receiver, trustee, assignee, or other fiduciary, and intends to produce spirits, or to possess or dispose of spirits on hand in the distillery, he must comply with the provisions of Subparts C and H of this part, to the extent that such provisions are applicable, except that in lieu of filing a new bond and new plat and plans, the fiduciary may furnish a consent of surety extending the terms of his predecessor's bond and adopt the plat and plans of such predecessor in accordance with §§ 183.245-183.246. The fiduciary must also furnish certified copies, in triplicate, of the order of the court or other pertinent documents showing his qualification as such fiduciary. The effective date of the qualifying documents filed by a fiduciary should be the same as the date of the court order, or the date specified therein, for him to assume control.

§ 183.245 *Consent of surety.* The consent of surety extending the terms of the predecessor's bond to cover operation of the distillery by a fiduciary must conform to the requirements of § 183.185, and be executed by both the fiduciary and the surety.

§ 183.246 *Adoption of plat and plans.* The plat and plans of the distillery may be adopted by a successor where they correctly describe and depict the distillery premises and the buildings, apparatus, and equipment thereon, to be taken over by the successor. The adoption by a successor of the plat and plans of his predecessor shall be in the form of a certificate, in triplicate, in which shall be set forth the name of the predecessor, the address and registered number of the distillery, a description of the distillery premises, or in lieu thereof reference to the successor's Form 27-A describing such premises, the number of each sheet comprising each plat and plan covered by such certificate, and a statement that the distillery premises, and the buildings, apparatus, and equipment thereon, are correctly described and depicted on such plat and plans.

§ 183.247 *Sign.* The successor, if other than a fiduciary temporarily operating the distillery, must change the distillery sign to conform to the requirements of § 183.80.

§ 183.248 *Materials and unfinished spirits.* If distilling materials and unfinished spirits are received by transfer from the predecessor, the successor must comply with the requirements of Subpart DD of this part.

OTHER CHANGES IN PROPRIETORSHIP OR OF CONTROL

§ 183.249 *Changes in partnership.* The withdrawal of one or more members of a partnership or the taking in of a new partner, whether active or silent, shall constitute a change in proprietorship. Likewise, the bankruptcy or adjudicated insolvency of one or more of the copartners results in a dissolution of the partnership and, consequently, a change in proprietorship. Where such a change in proprietorship of the distillery occurs, the successor must qualify in the same manner as the proprietor of a new distillery, except that the successor may adopt the plat and plans of the predecessor as provided in § 183.246.

§ 183.250 *Changes in stockholders, officers, and directors of corporation.* The sale or transfer of the capital stock of a corporation operating a distillery does not constitute a change in the proprietorship of the distillery. However, where the sale or transfer of capital stock results in a change in the control or management of the business, or where there is any change in the officers or directors, the distiller must give notice thereof, in triplicate, to the district supervisor within 24 hours of such change. Mere changes in stockholders of corporations not constituting a change in control need not be so reported. The district supervisor must, in the case of changes in officers or directors, be furnished extracts, in triplicate, of the minutes of the meetings showing such changes.

(53 Stat. 309, 373, as amended; 26 U. S. C. 2812, 3170)

§ 183.251 *Reincorporation.* Where a corporation operating a distillery is reorganized and a new charter or certificate of incorporation is secured, the new corporation must qualify in the same manner as a new proprietor of the distillery, except that the new corporation may adopt the plat and plans of the predecessor as provided in § 183.246.

CHANGES IN LOCATION, PREMISES AND EQUIPMENT

§ 183.252 *Change in location.* Where there is a change in the location of the distillery premises, the distiller must comply with all applicable provisions of Subparts C to H, inclusive, except that in lieu of the filing of a new distiller's bond, Form 30, the distiller may furnish a consent of surety, Form 1533, in accordance with § 183.185, extending the terms of the distiller's bond given for the former location to cover operation of the distillery at the new location.

§ 183.253 *Changes in premises.* Where the distillery premises are to be extended or curtailed, the distiller must file with the district supervisor an amended notice, Form 27-A, and an amended plat of the premises as ex-

tended or curtailed, except as herein specifically authorized in the case of alternate operations of the bottling department. If the plans are affected by the extension or curtailment, they must also be amended. If the distillery is within 600 feet of a rectifying plant, the distiller must also file a special application in accordance with §§ 183.42 and 183.43. The additional premises covered by an extension may not be used for distillery purposes, and the portion of the distillery premises to be excluded by a curtailment may not be used for other than distillery purposes, prior to approval of the notice, Form 27-A. Where an internal revenue bonded warehouse containing a bottling-in-bond department is located on the distillery premises, and the documents required by Regulations 10 (26 CFR Part 185) governing the alternate operation of the bottling house as a bottling-in-bond department and a tax-paid bottling house, are filed, and no change in proprietorship is involved, the filing of additional notices, Form 27-A, covering changes in the temporary status thereof from time to time will not be required.

(53 Stat. 309, 312, 314, 332, 343, 373, as amended; 26 U. S. C. 2812, 2816, 2819, 2873, 2904, 3170)

§ 183.254 *Changes in construction and use.* Where a change is to be made in the construction of a room or building not involving an extension or curtailment of the distillery premises, or where a change is to be made in the use of any portion of such premises, the distiller shall first secure approval thereof by the district supervisor pursuant to application, in triplicate, setting forth specifically the proposed changes. If the changes involve buildings which are to be demolished or altered in such a manner as to decrease the value of the property the application shall include: (a) The date of original purchase; (b) the name and address of the vendor; (c) the original cost; and (d) the present book value and method used in determining such value. Upon approval of the application, the changes will be made under the supervision of a Government officer, unless in the opinion of the district supervisor, they do not require such supervision. The completed changes will be reflected in the next amended or annual notice, Form 27-A, and amended plans filed by the distiller, unless the district supervisor requires the immediate filing of an amended notice and amended plans. If the buildings to be demolished, or altered in such a manner as to decrease the value thereof, are on premises which have been eliminated from the distillery premises, a statement in writing, in triplicate, containing the data prescribed by items (a) through (d) shall be furnished the district supervisor.

(53 Stat. 309, 312, 373, as amended; 26 U. S. C. 2812, 2816, 3170)

§ 183.255 *Indemnity bond covering changes in buildings.* If buildings on the distillery premises, or on premises, which have been eliminated from the distillery premises, are to be demolished or altered in such a manner as to decrease the value of the property, and a lien for taxes

exists on such property under section 2800 (e), I. R. C., the distiller must file with the district supervisor an indemnity bond, Form 1617, in triplicate, in a penal sum equal to the decrease in the value of the property: *Provided*, That, if such decrease in value is less than \$5,000, no indemnity bond will be required.

(53 Stat. 298, as amended; 26 U. S. C. 2800)

§ 183.256 *Appraisal*. The amount of the decrease in the value of the property subject to the Government's lien, which will be caused by the demolition or alteration of buildings, shall be determined by appraisal by two or more competent persons designated by the district supervisor. The appraisers shall render to the district supervisor a report, in duplicate, of their appraisal, which shall include information as to the methods employed by them in determining their valuations. The appraisal shall be at the expense of the distiller, unless made by Government officers. The district supervisor may dispense with the formal appraisal when he has reason to believe that the value of the property concerned is less than \$5,000.

(53 Stat. 298, as amended; 26 U. S. C. 2800)

§ 183.257 *Changes in equipment*. Where changes are to be made in the distilling apparatus and equipment, the distiller shall first secure approval thereof by the district supervisor pursuant to application, in triplicate, setting forth specifically the proposed changes: *Provided*, That emergency repairs may be made under the supervision of a Government officer without prior approval of the district supervisor. If the distilling apparatus or equipment referred to in § 183.258 is to be removed, the distiller's application shall include information showing: (a) The date of original purchase; (b) the name and address of the vendor; (c) a description of the article, including model and serial numbers, if any; (d) original cost; (e) present book value and method used in determining such value; and (f) proposed disposition of the article. Where emergency repairs are made, the distiller shall file immediately a report thereof, in triplicate, with the district supervisor. Changes covered by an approved application will also be made under the supervision of a Government officer. Upon completion of any change made under his supervision, the Government officer will authorize the removal of the dismantled equipment, and the use of the new or repaired equipment, and submit a report of the changes to the district supervisor.

(53 Stat. 312, 373, as amended; 26 U. S. C. 2816, 3170)

§ 183.258 *Indemnity bond covering removal of equipment*. If distilling apparatus or equipment on which a lien has attached under section 2800 (e), I. R. C., for taxes on spirits produced which have not been tax-paid or withdrawn for a tax-free purpose, is to be removed from the distillery premises without adding property that will become a fixture in law of an equal or greater value than the apparatus or equipment to be removed, the distiller must file with the district

supervisor an indemnity bond on Form 1617, in triplicate. Such bond must be in a penal sum equal to the value of the apparatus or equipment to be removed, or equal to the excess in value of the apparatus or equipment to be removed over the value of the property to be substituted therefor: *Provided*, That if such value or difference in value, as the case may be, is less than \$5,000 no indemnity bond will be required: *And provided further*, That no indemnity bond will be required to cover the removal of equipment from the distillery bonded premises to another bonded premises, if the two premises are controlled by the same interests. The distiller must include in his application sufficient evidence to support a request for any waiver of indemnity bond requirements. The value of the distilling apparatus or equipment to be removed, or the difference between the value of such old apparatus or equipment and the value of the new property to be added will be determined in the manner prescribed in § 183.256.

(53 Stat. 298, as amended; 26 U. S. C. 2800)

§ 183.259 *Amended notice and plans covering changes in equipment*. Upon completion of changes in equipment which materially affect the accuracy of the Form 27-A or plans, the distiller must file an amended notice and amended plans. Where an amended notice and amended plans are not filed immediately upon completion of minor changes in equipment, such as general repairs, changes in pipe lines, or the addition or removal of a tank, the distiller must include such changes in the next amended or annual notice, and amended plans to be filed by him. The Commissioner or the district supervisor may, at any time, in his discretion, require the immediate filing of an amended notice and plans covering any change in equipment.

(53 Stat. 309, 312, 373, as amended; 26 U. S. C. 2812, 2816, 3170)

CHANGE IN TITLE TO DISTILLERY PROPERTY OR THE ENCUMBRANCE THEREOF

§ 183.260 *Change of title*. Where the title to the lot or tract of land upon which the distillery is located is changed by a sale, judicial or otherwise, or where there is any change in the ownership of the premises or the distilling apparatus or equipment, subsequent to the approval of the distiller's bond, Form 30, the distiller is no longer qualified. If the distiller desires to qualify for further operation of the distillery when such a change occurs he must file an amended notice, Form 27-A, together with the necessary consent, Form 1602, or a proper indemnity bond in lieu of such consent. In addition to such amended notice and consent or indemnity bond the district supervisor may in his discretion require the distiller to file a new distiller's bond, Form 30.

(53 Stat. 309, 310, 311, 373, as amended; 26 U. S. C. 2812, 2814, 2815, 3170)

§ 183.261 *Encumbrance*. If subsequent to the approval of the distiller's bond the lot or tract of land upon which the distillery is situated, or any part thereof, or any of the distilling apparatus or equipment becomes subject to or

encumbered by any mortgage, judgment, or other encumbrance, the distiller must immediately file (a) an amended notice, Form 27-A, (b) consent on Form 1602, or a proper indemnity bond in lieu of such consent, and (c) a consent of surety on his present distiller's bond, or a new distiller's bond in lieu of such consent.

(53 Stat. 309, 310, 311, 373, as amended; 26 U. S. C. 2812, 2814, 2815, 3170)

SUBPART L—REQUIREMENTS GOVERNING OPERATION OF DISTILLERY UNDER ALTERNATING PROPRIETORSHIPS

QUALIFICATIONS FOR INITIAL ALTERNATING PROPRIETORSHIPS

§ 183.270 *Where no bonded warehouse on premises*. A registered distillery may be operated under alternating proprietorships for the production of distilled spirits. Where it is desired to operate a registered distillery under alternating proprietorships and there is no internal revenue bonded warehouse on the distillery premises, the successor (lessee) distiller must qualify as proprietor of the distillery in accordance with the provisions of § 183.241. At the time a distiller first suspends operations preparatory to the operation of the registered distillery by an alternate proprietor, he must discontinue operations and comply with the following requirements:

(a) *Amended notice, Form 27-A*. File with the district supervisor an amended notice on Form 27-A, in triplicate, stating thereon the purpose of the notice to be "Temporary discontinuance in order that the registered distillery may be operated by an alternate proprietor" and give the date of discontinuance.

(b) *Consent of surety*. File a blanket consent of surety, Form 1533, in triplicate, to continue in effect bond, Form 30. Such blanket consent of surety may be filed to cover all such alternate operations and may be executed in the following form:

To continue in effect the said bond, whenever operation of the distillery is resumed from time to time, pursuant to application on Form 1696, filed by the principal following suspension of operations by an alternate proprietor.

(c) *Materials and unfinished spirits*. If distilling materials and unfinished spirits are to be transferred to the successor, comply with the requirements of §§ 183.670, 183.671, and 183.673. Whenever the proprietorship is to be alternated after the first suspension, the procedure prescribed in §§ 183.272 and 183.273 will be followed.

(53 Stat. 309, 310, 311, 324, 373, as amended; 26 U. S. C. 2812, 2814, 2815, 2850, 3170)

§ 183.271 *Where bonded warehouse on premises*. Where an internal revenue bonded warehouse is located on the distillery premises, the proprietorship of the distillery may be alternated in accordance with the requirements of § 183.270. In addition, the outgoing (lessor) distiller shall designate the plat on file which depicts the entire distillery premises, including the internal revenue bonded warehouse as "Plat A" and file a new plat which will be designated as "Plat B" depicting the internal revenue

bonded warehouse and any other portion of the distillery premises not to be operated by the lessee as a portion of the registered distillery. He shall also describe in the amended notice, Form 27-A, the bonded warehouse and any portion of the distillery premises not to be operated as a part of the registered distillery. The description thereof must correspond with the depiction of the premises on Plat B.

Whenever the proprietorship is to be alternated after the first suspension, the procedure prescribed by §§ 183.272 and 183.273 will be followed.

(53 Stat. 309, 324, 373, as amended; 26 U. S. C. 2812, 2850, 3170)

SUSPENSION FOR SUBSEQUENT ALTERNATE PROPRIETORSHIPS

§ 183.272 *Requirements.* Where an alternate proprietor desires to suspend operations of the registered distillery preparatory to resumption by another alternate proprietor, he must comply with the following requirements:

(a) *Notice of alternate operations.* File Form 1696 through the storekeeper-gauger in charge, with the district supervisor, giving notice of intention to suspend operations. The form shall be executed and filed in accordance with the various lines on the form and the instructions printed thereon, or issued in respect thereto. Form 1696 shall contain or be verified by a written declaration that it is executed under the penalties of perjury. Operations will be suspended upon approval of the notice by the district supervisor in accordance with § 183.274.

(b) *Materials and unfinished spirits.* If distilling materials and unfinished spirits are to be transferred to the successor, the procedure prescribed by §§ 183.670, 183.671, and 183.673 must be followed.

(53 Stat. 309, 324, 373, as amended; 63 Stat. 667; 26 U. S. C. 2812, 2850, 3170, 3809)

RESUMPTION FOR SUBSEQUENT ALTERNATE PROPRIETORSHIPS

§ 183.273 *Requirements.* Where an alternate proprietor desires to resume operation of the registered distillery following suspension by another alternate proprietor, he must comply with the following requirements:

(a) *Notice of alternate operations.* File Form 1696, through the storekeeper-gauger in charge, with the district supervisor for authority to resume operations. The notice shall be executed in accordance with the instructions printed on the form, and otherwise completed as provided in § 183.272.

(b) *Materials and unfinished spirits.* If distilling materials and unfinished spirits are to be received from the predecessor, the procedure prescribed by §§ 183.670, 183.671, and 183.673 will be followed.

(53 Stat. 309, 324, 373, as amended; 63 Stat. 667; 26 U. S. C. 2812, 2850, 3170, 3809)

ACTION BY DISTRICT SUPERVISOR

§ 183.274 *Approval and disposition of Form 1696.* Upon receipt of Form 1696 the district supervisor will, if he finds

that the notice may properly be approved, execute the certificate of approval on all copies and dispose of the copies in accordance with the instructions printed on the form, or issued in respect thereto.

(53 Stat. 309, 373 as amended; 26 U. S. C. 2812, 3170)

SUBPART M—REQUIREMENTS GOVERNING ALTERNATE OPERATIONS AS FRUIT DISTILLERY OR INDUSTRIAL ALCOHOL PLANT

QUALIFICATIONS FOR INITIAL ALTERNATING OPERATIONS

§ 183.280 *Where no bonded warehouse on premises.* A registered distillery may be operated alternately for the production of distilled spirits under this part, the production of brandy under Regulations 5 (26 CFR, Part 184), or the production of alcohol under Regulations 3 (26 CFR, Part 182). Where it is desired to conduct alternating operations at a registered distillery and there is no internal revenue bonded warehouse located on the distillery premises, the successor (incoming) proprietor must first qualify as proprietor of the premises. At the time of the first suspension for the purpose of conducting alternate operations, the outgoing distiller must discontinue operations and comply with the following requirements:

(a) *Amended notice, Form 27-A.* File with the district supervisor an amended notice on Form 27-A, in triplicate, stating thereon the purpose of the notice to be "Temporary discontinuance in order that the registered distillery may be operated as a fruit distillery" (or industrial alcohol plant, as the case may be), and give the date of discontinuance.

(b) *Consent of surety.* File with the district supervisor a blanket consent of surety, Form 1533, in triplicate, to continue in effect bond, Form 30. Such blanket consent of surety may be filed to cover all such alternate operations and may be executed in the following form:

To continue in effect the said bond, whenever operation of the distillery is resumed from time to time, pursuant to application on Form 1696, filed by the principal following suspension of operations as an industrial alcohol plant or fruit distillery.

(c) *Materials, heads and tails, and unfinished spirits.* If distilling materials are transferred to the successor or if heads and tails or unfinished spirits are to be retained on the premises pending the resumption of operations as a registered distillery, comply with the requirements of §§ 183.656-183.660. Whenever alternate operations are to be conducted after the first suspension, the procedure prescribed by §§ 183.282 and 183.283 will be followed.

(53 Stat. 309, 310, 311, 373, as amended; 26 U. S. C. 2812, 2814, 2815, 3170)

§ 183.281 *Where bonded warehouse on premises.* Where an internal revenue bonded warehouse is located on the distillery premises, the distillery may be operated alternately as a registered distillery, a fruit distillery, or an industrial alcohol plant upon compliance with the requirements of § 183.280. The distiller shall designate the plat on file which

depicts the entire distillery premises, including the internal revenue bonded warehouse as "Plat A," and file a new plat which will be designated as "Plat B," depicting the internal revenue bonded warehouse and any other portion of the distillery premises not to be operated by the incoming alternate proprietor. The outgoing distiller shall also describe in the amended notice, Form 27-A, the bonded warehouse and any portion of the distillery premises not to be operated by the incoming proprietor. The description thereof must correspond with the depiction of the premises on Plat B.

Whenever alternate operations are to be conducted after the first suspension, the procedure prescribed by §§ 183.282 and 183.283 will be followed.

(53 Stat. 309, 373, as amended; 26 U. S. C. 2812, 3170)

SUSPENSION FOR SUBSEQUENT ALTERNATE OPERATIONS

§ 183.282 *Requirements.* Where a distiller desires to suspend operations of the registered distillery preparatory to resumption of operations as a fruit distillery or industrial alcohol plant, he must comply with the following requirements:

(a) *Notice of alternate operations.* File Form 1696, through the storekeeper-gauger in charge, with the district supervisor, giving notice of intention to suspend operations. The form shall be executed and filed in accordance with the various lines on the form and the instructions printed thereon, or issued in respect thereto. Form 1696 shall contain or be verified by a written declaration that it is executed under the penalties of perjury. Operations will be suspended upon approval of the notice by the district supervisor in accordance with § 183.284.

(b) *Materials, heads and tails, and unfinished spirits.* If distilling materials are transferred to the successor or if heads and tails or unfinished spirits are to be retained on the premises pending the resumption of operations as a registered distillery, comply with the requirements of §§ 183.656-183.660.

(53 Stat. 309, 324, 373, as amended; 63 Stat. 667; 26 U. S. C. 2812, 2850, 3170, 3809)

RESUMPTION FOR SUBSEQUENT ALTERNATE OPERATIONS

§ 183.283 *Requirements.* Where a distiller desires to resume operation of the registered distillery following suspension of operations as an industrial alcohol plant or fruit distillery, he must comply with the following requirements:

(a) *Notice of alternate operations.* File Form 1696, through the storekeeper-gauger in charge, with the district supervisor for authority to resume operations. The notice shall be executed in accordance with the instructions printed on the form, or issued in respect thereto, and otherwise completed as provided in § 183.282.

(b) *Materials.* If distilling materials are received by transfer from the predecessor, comply with the requirements of §§ 183.659 and 183.660.

(53 Stat. 309, 324, 373, as amended; 63 Stat. 667; 26 U. S. C. 2812, 2850, 3170, 3809)

ACTION BY DISTRICT SUPERVISOR

§ 183.284 *Approval and disposition of Form 1696.* Upon receipt of Form 1696, the district supervisor will, if he finds that the notice may be properly approved, execute the certificate of approval on all copies and dispose of the copies in accordance with the instructions printed on the form, or issued in respect thereto.

(53 Stat. 309, 373, as amended; 26 U. S. C. 2812, 3170)

SUBPART N—ACTION BY DISTRICT SUPERVISOR

ORIGINAL ESTABLISHMENT

§ 183.290 *Authority to approve.* District supervisors are authorized to approve all notices, bonds, consents of surety, and other qualifying documents required by this part.

(53 Stat. 309, 310, 311, 312, 373, as amended; 26 U. S. C. 2812, 2814, 2815, 2816, 3170)

§ 183.291 *Special application.* Where a special application for permission to operate a distillery within 600 feet of a rectifying plant is submitted by the distiller, and such special application conforms to the requirements of this part, the district supervisor will cause an inspection to be made to determine whether the proposed operation of the distillery within 600 feet of the rectifying plant may be permitted without jeopardy to the revenue. The inspector will ascertain whether the application accurately describes the relative location of the two premises and all pipe lines and other connections, if any, between such premises. The inspector will also observe the surroundings, including all streets, roads, and driveways connecting the two premises, and any condition which might endanger the revenue, and will describe the same in his report. If the district supervisor finds, upon consideration of the inspection report, that the distillery may be operated at the designated location without danger to the revenue, he will note his approval on all copies of the special application. He will then return one copy of the approved application to the applicant, retain one copy for his files, and forward the remaining copy, together with a copy of the inspection report, to the Commissioner. Approval of the special application pertains to the location of the distillery only, and does not authorize the operation thereof. The distillery may not be operated until the distiller's bond and other qualifying documents required by law and this part have been filed and approved. If the special application is disapproved, the district supervisor will note his disapproval thereon, retain one copy and return all remaining copies of such application to the applicant, with advice as to the reasons for disapproval.

(53 Stat. 314, 373, as amended; 26 U. S. C. 2819, 3170)

§ 183.292 *Distillery fence application.* Where a special application for permission to construct and maintain a fence or wall of a greater height than 5 feet around the distillery is submitted, and such application conforms to the re-

quirements of this part, the district supervisor will, if he finds that the construction and maintenance of such fence or wall is necessary to give adequate protection from trespassers, and that the revenue would not be endangered, note his approval on all copies of the special application, return one copy to the applicant, retain one copy for his files, and forward one copy to the Commissioner with the distiller's notice, bond, and other qualifying documents. If the district supervisor finds that the construction and maintenance of such fence or wall is not necessary to afford protection from trespassers, or that the revenue would be endangered thereby, he will note his disapproval on the special application, retain one copy and return the remaining copies to the applicant with a statement of the reasons for disapproval.

(53 Stat. 316, 373, as amended; 26 U. S. C. 2826, 3170)

§ 183.293 *Indemnity bond application.* When an application for permission to file an indemnity bond in lieu of the written consent of the owner of the distillery premises or apparatus or equipment, or of any mortgagee, judgment-creditor, conditional sales vendor, or other person having a lien thereon, is submitted by the distiller and such application conforms to the requirements of this part, the district supervisor will cause an investigation to be made of the facts upon which the application is based, and will designate two or more competent persons to make an appraisal of the value of the lot or tract of land on which the distillery is situated, the distillery, the buildings, and the distilling apparatus. The appraisal shall be made as provided in § 183.144. If the district supervisor finds, upon consideration of the appraisal and reports of investigation, that under the law and this part an indemnity bond may properly be accepted in lieu of the consent of the owner or lienor, and if he is satisfied that the valuation placed upon the distillery property by the appraisers is fair, he will note the appraised value and his approval on all copies of the application. He will then return one copy of the approved application to the applicant and retain one copy for his files. He will forward the remaining copy of the application and copies of the reports of investigation and appraisal to the Commissioner at the time of forwarding the indemnity bond. If the application is disapproved, the district supervisor will note his disapproval thereon, retain one copy and return the remaining copies of such application to the applicant with a statement of the reasons for disapproval.

(53 Stat. 311, 373, as amended; 26 U. S. C. 2815, 3170)

§ 183.294 *Examination of other qualifying documents.* Upon receipt of notice, plat, plans, bond, consent (Form 1602), if any, or indemnity bond in lieu thereof, and other documents required by this part, of persons intending to qualify as distillers, the district supervisor will examine the same to determine whether they have been properly executed, and whether they reflect compliance with the requirements of the law

and this part. Where any required document has not been filed, or where errors or discrepancies are found in those filed, or where the documents filed do not reflect compliance with this part, action thereon will be held in abeyance until the omission, or error, or discrepancy has been rectified, and there has been full compliance with all requirements.

§ 183.295 *Inspection of premises.* When the required documents have been filed in proper form, the district supervisor will assign an inspector to examine the premises, buildings, apparatus, and equipment, and determine whether they conform with the description thereof in the notice, plat and plans, and special applications, if any, and whether the construction and measures of protection afforded meet the requirements of the law and this part. The inspector will observe particularly the manner in which the rooms or buildings on the premises are separated from each other and from other premises, means of communication, ingress and egress, adequacy of protection afforded windows, doors, and other openings, construction of apparatus and equipment, and the suitability of the Government office and facilities. The inspector will also make careful inquiry respecting the applicant's title to, or interest in, the lot or tract of land, the distillery, and the apparatus and equipment, in order to determine whether proper consents on Form 1602 of the owner and of any mortgagees, judgment-creditors, lienors, other encumbrancers, conditional sales vendors, or prior lessees, have been procured and submitted by the applicant. The inspector will examine the records in the office of the recorder of deeds or other office where titles and matters affecting titles are filed to verify the statements of the applicant respecting his title to, or interest in, the property. The inspector should require the applicant to submit for examination invoices, bills of sale, conditional sales contracts, leases, or other commercial paper for verification of the statements made on Form 27-A respecting his title to, or interest in, the apparatus and equipment. Where the inspection discloses minor irregularities in the qualifying documents or in the construction, the inspector will, at the time of their discovery, direct the attention of the applicant to the same in order that the applicant may correct the defects before completion of the inspection. Upon completion of the inspection, a report thereof will be submitted to the district supervisor.

(53 Stat. 312, 317; 26 U. S. C. 2817, 2826)

§ 183.296 *Report of inspection.* The report of the inspection shall describe separately all irregularities and discrepancies found during the course of the inspection, and shall include a complete statement describing all unusual or special conditions. Where irregularities were corrected during the inspection, the report will indicate the corrections so made. The report need not set out in detail each description as set forth in the notice, plat, and plans. The description of buildings and equipment in the report should be general and

brief. However, construction, equipment, signs, etc., which are not in conformity with the law and this part, will be completely described. If there are any pipe lines or other connections or openings between the bonded premises and other premises, the same shall be described in detail. There shall be further embodied in the report a statement as to whether or not another business is being conducted, or is intended to be conducted, on the bonded premises or in buildings thereon.

§ 183.297 Inaccurate documents. Where the district supervisor's examination, or the inspector's report, discloses discrepancies in the qualifying documents, the inaccurate or incomplete documents will be returned to the proprietor for correction. A record will be kept of all bonds so returned.

§ 183.298 Defective construction. Where it is found that the construction of the distillery or its equipment does not conform to the requirements of the law and this part, the district supervisor will inform the proprietor concerning the defects, and further action will be held in abeyance pending correction thereof.

§ 183.299 Law violation record. Before approving any bond or consent of surety given by any individual, firm, partnership, corporation or association in respect to the business of a distiller, the district supervisor will cause such inquiry or investigation as may be deemed necessary to ascertain whether such individual, firm, partnership, corporation, or association or any person owning, controlling or actively participating in the management of the business has been convicted of, or has compromised an offense, of the nature specified in § 183.188. Where record is found of the conviction or the compromise of such an offense, the district supervisor may disapprove the bond or consent upon the basis of his findings; provided that if the bond or consent is disapproved, the principal may appeal the district supervisor's action to the Commissioner. Where an appeal is taken to the Commissioner, the district supervisor will furnish the Commissioner with full information respecting the reasons for disapproval including the nature and place of the offense, the names of the offenders and the date of conviction or acceptance of an offer in compromise.

(53 Stat. 310, 311, 373, as amended; 26 U. S. C. 2814, 2815, 3170)

§ 183.300 Approval of qualifying documents. If the district supervisor finds, upon examination of the inspection report and the qualifying documents, that the person seeking to qualify as a distiller has complied in all respects with the requirements of law and this part, and if the distiller's bond (Form 30) and the consent (Form 1602), if any, or the indemnity bond filed in lieu thereof may properly be approved under § 183.299, and if the applicant is entitled to a permit, he will assign a registry number to the distillery in accordance with § 183.301, note his approval on all copies of the distiller's bond, consent or indemnity bond, notice and plat and plans,

and dispose of the qualifying documents and inspectors' reports in accordance with § 183.303. The issuance of a permit under the Federal Alcohol Administration Act should be withheld pending approval of the notice, bond, and other qualifying documents required by the internal revenue laws and this part.

(53 Stat. 308, as amended, 309, 310, 311, 312, 373, as amended; 26 U. S. C. 2810, 2812, 2814, 2815, 2816, 3170)

§ 183.301 Registry numbers. Registered distilleries will be numbered serially in the order of their establishment. A separate series will be used for each State. Registry numbers heretofore assigned will be retained, and new distilleries will be assigned numbers in sequence thereto. Registry numbers previously assigned to discontinued distilleries will not be reassigned to other distilleries. The same registry number will be continued whenever there is a change of proprietorship.

§ 183.302 Disapproval of qualifying documents. If the district supervisor finds that the applicant has not complied in all respects with the requirements of the law and this part, or that the situation of the distillery is such as would enable the distiller to defraud the United States, or that the bond should be disapproved under § 183.299, he will note his disapproval on the notice, Form 27-A, and will dispose of the qualifying documents in accordance with § 183.303.

(53 Stat. 309, 310, 311, 373, as amended; 26 U. S. C. 2812, 2814, 2815, 3170)

§ 183.303 Disposition of qualifying documents. Where the district supervisor approves the qualifying documents, he will forward to the applicant one copy of the documents with the original of the basic permit issued under the Federal Alcohol Administration Act, forward to the Commissioner the originals of the qualifying documents and a copy of the basic permit issued under the Federal Alcohol Administration Act, together with copies of inspection reports, and retain one copy of the qualifying documents for the file of the applicant. If the qualifying documents are disapproved, the district supervisor shall return to the applicant by registered mail, one copy of the disapproved notice, together with all copies of the qualifying documents and all copies of the bond without action thereon. The district supervisor shall forward one copy of the disapproved notice to the Commissioner and will advise him fully respecting the disapproval thereof. He shall retain the remaining papers in his files. If the applicant is not entitled to a basic permit, the district supervisor will, upon disapproval of the application therefor, return all copies of the qualifying documents to the applicant without action thereon.

CHANGES SUBSEQUENT TO ORIGINAL ESTABLISHMENT

§ 183.304 Procedure applicable. The provisions of §§ 183.290-183.303 respecting the action required of district supervisors in connection with the original establishment of distilleries will be followed, to the extent applicable, where

there is a change in the individual, firm, or corporate name of the distiller, or in the trade name or style, or where the distillery is to be operated initially under a trade name or style, or where there is a change in the proprietorship, location, premises, construction, apparatus and equipment of the distillery, or in the type of plant, or in the title to the distillery property, or where such property becomes subject to a mortgage, judgment, or other encumbrance, or where operations are permanently discontinued.

§ 183.305 Indemnity bond, Form 1617. Where changes to be made in distillery buildings or former distillery buildings or distillery equipment are such as to require the filing of an indemnity bond on Form 1617, as provided in §§ 183.255 and 183.258, the district supervisor will, upon receipt of a satisfactory bond, note his approval thereon, and dispose of the bond as provided by § 183.303.

§ 183.306 Applications and reports covering changes. Where an application covering changes in the distilling apparatus or equipment, or in the construction or use of a room or building, is authorized by the district supervisor, he will, after completion of the change, retain one copy of the application and forward one copy to the distiller and one copy to the Commissioner. Similar disposition will be made of reports received from the distiller covering emergency repairs of distilling apparatus and equipment.

ANNUAL NOTICES, CONSENTS (FORM 1602) AND BONDS, CONSENTS OF SURETY AND ADDITIONAL AND SUPERSEDING BONDS

§ 183.307 Procedure applicable. The procedure prescribed in this subpart for the approval and disapproval of notices and bonds submitted in connection with the establishment of distilleries will, to the extent applicable, govern the approval and disapproval of annual notices, consents (Form 1602) and bonds, consents of surety and additional and superseding bonds.

SUBPART O—ACTION BY COMMISSIONER ORIGINAL ESTABLISHMENT

§ 183.310 Review of documents. The Commissioner will review the action of the district supervisor relating to the establishment of registered distilleries and determine whether it is in conformity with the requirements of law and this part. If not, the Commissioner will advise the district supervisor as to the necessary action to be taken.

(53 Stat. 309, 310, 311, 312, 373, as amended; 26 U. S. C. 2812, 2814, 2815, 2816, 3170)

CHANGES SUBSEQUENT TO ORIGINAL ESTABLISHMENT

§ 183.311 Procedure applicable. The provisions of § 183.310 respecting the action of the Commissioner in connection with the establishment of distilleries will be followed to the extent applicable, where there is a change in the name or in the firm name, trade name or style or in the proprietorship, location, premises, construction, apparatus and equipment of the distillery or in the type of plant or in the title to the distillery

property or where such property becomes subject to a mortgage, judgment or other encumbrance.

SUBPART P—TERMINATION OF BONDS

§ 183.320 *Termination of distiller's bond.* The distiller's bond (Form 30) is an annual bond and, therefore, upon expiration of the period for which it is given automatically terminates as to spirits produced subsequent to such period. Such bonds may be terminated as to future production prior to expiration of the period for which given, (a) pursuant to application by the surety as provided in § 183.324, or (b) upon approval of a superseding bond or discontinuance of business by the principal. Application for notice of termination of a distiller's bond upon approval of a superseding bond or discontinuance of the business must be filed in duplicate with the district supervisor.

(53 Stat. 310, 373, as amended; 26 U. S. C. 2814, 3170)

§ 183.321 *Termination of indemnity bonds, Forms 3 and 3-A.* Indemnity bonds (Forms 3 and 3-A) given in lieu of the consent of the owner of the distillery premises or property, and of any mortgagee, judgment-creditor, lienor, encumbrancer, conditional sales vendor, etc., to priority of the Government's lien for taxes and penalties and other interests, run for an indefinite period. Such bonds may be terminated as to liability for future operations of the distillery, (a) pursuant to application by the surety as provided in § 183.324, (b) upon approval of a superseding bond or discontinuance of business by the principal, (c) if the distiller (1) becomes the owner in fee unencumbered of the property covered by the bond or (2) files the consent of the owner or encumbrancer to priority of the Government's lien for taxes and penalties and other interests as provided in § 183.137 or (d) if all spirits produced while such indemnity bond was in force are tax-paid or removed for lawful tax-free purposes. Application for notice of termination of such bonds upon approval of the superseding bond or discontinuance of the business or under conditions (c) and (d) of this section must be filed in duplicate with the district supervisor.

(53 Stat. 298, as amended, 311; 26 U. S. C. 2800, 2815)

§ 183.322 *Termination of indemnity bonds, Form 1617.* Indemnity bonds (Form 1617) given in connection with changes in buildings and equipment on which a lien had attached under section 2800 (e), I. R. C., may be terminated (a) upon approval of a superseding bond, or (b) upon tax-payment or removal for a lawful tax-free purpose of all spirits produced while the property covering which the indemnity bond was filed formed a part of the distillery premises and equipment. Application for notice of termination of such bonds must be filed in duplicate with the district supervisor.

(53 Stat. 298, as amended, 311; 26 U. S. C. 2800, 2815)

§ 183.323 *Termination of export bonds.* Bonds (Forms 547, 548, 657, and

658) given to cover the exportation, or the transportation for export, of spirits of not less than 180 degrees of proof, withdrawn from the distillery in tank cars for such purpose as provided in § 183.585, will be terminated in accordance with the provisions set forth in Regulations 10 (26 CFR Part 185) for the termination of such bonds when given to cover the exportation, or the transportation for export, of spirits withdrawn from internal revenue bonded warehouses.

(53 Stat. 336, 337, 339; 26 U. S. C. 2885, 2886, 2888)

§ 183.324 *Application of surety for relief from bond.* A surety on any bond required by this part may at any time in writing notify the principal and the district supervisor in whose office the bond is on file, that he desires after a date named, which shall be at least 60 days after the date of notification, to be relieved of liability under said bond. The notice shall be executed in triplicate by the surety, who shall deliver one copy to the principal and the other two copies to the district supervisor, who will retain one copy and transmit the remaining copy to the Commissioner. If such notice is not thereafter in writing withdrawn, the rights of the principal as supported by said bond shall be terminated on the date named in the notice, and the surety shall be relieved (a) in the case of a distiller's bond (Form 30) from liability for distilled spirits produced wholly subsequent to the date named in the notice, (b) in the case of indemnity bonds (Forms 3 and 3-A) from liability for operations of the distillery wholly subsequent to such date, and (c) in the case of export bonds (Forms 547, 548, 657, and 658) from liability for distilled spirits withdrawn for export wholly subsequent to such date. This notice may not be given by an agent of the surety unless it is accompanied by a power of attorney, duly executed by the surety, authorizing him to give such notice, or by a verified statement that such power of attorney is on file with the Department. The surety must also file with the district supervisor an acknowledgement or other proof of service of such notice on the principal.

§ 183.325 *Action on application for notice of termination of distiller's bond.* When an application for notice of termination of a distiller's bond as to future production is filed with the district supervisor in a case where a superseding bond has been approved, or the principal has discontinued business, as provided in § 183.320, the district supervisor will make a complete examination of records to determine whether there is any liability then due and payable outstanding against the bond. He will also ascertain from the collector of internal revenue whether there are any outstanding, unpaid assessments or demands for taxes on spirits produced under the bond. If it is found that violations of law or regulations occurred during the period covered by the bond and that penalties incurred or fines imposed have not been paid, or that outstanding assessments, or demands for payment of taxes, chargeable against the bond have not been

paid, or otherwise settled, the district supervisor will disapprove the application, unless the liability is settled. If the district supervisor finds that the distiller's bond may properly be terminated, he will issue notice of termination thereof in accordance with § 183.327.

(53 Stat. 373, as amended; 26 U. S. C. 3170)

§ 183.326 *Action on application for notice of termination of indemnity bond.* When an application for notice of termination of an indemnity bond (Form 3 or 3-A) as to future operations of the distillery is filed with the district supervisor in a case where a superseding bond has been approved, or the principal has discontinued business, as provided in § 183.321, the district supervisor will take action in accordance with the procedure prescribed in § 183.325, in the case of an application for the termination of a distiller's bond. When an application for notice of termination of an indemnity bond (Form 1617) covering changes in buildings or equipment is filed with the district supervisor, he will make a complete inquiry to determine whether all spirits, the tax on which constituted the lien in relation to which the bond was given, have been tax-paid or removed for a lawful tax-free purpose. If the district supervisor finds that the bond may properly be terminated, he will issue notice of termination thereof in accordance with § 183.327.

(53 Stat. 373, as amended; 26 U. S. C. 3170)

§ 183.327 *Notice of termination.* When the district supervisor has determined that an application for termination of a distiller's bond (Form 30) as to liability for future production, or of an indemnity bond (Form 3 or 3-A) as to liability for future operations of the distillery, or an indemnity bond (Form 1617) as to future liability, may properly be approved, he will execute Form 1490, where a superseding bond has been approved, or Form 1491, where the principal has discontinued business, in quadruplicate (in quintuplicate if there are two sureties) and will forward the original, together with one copy of the application, to the Commissioner, one copy to each obligor on the bond, and retain one copy on file with the bond to which it relates.

(53 Stat. 373, as amended; 26 U. S. C. 3170)

§ 183.328 *Release of collateral.* The release of collateral pledged and deposited with the United States to support bonds required by this part will be in accordance with the provisions of Department Circular No. 154 revised (31 CFR, Part 225), subject to the conditions governing the issuance of notices on Forms 1490 and 1491 of the termination of such bonds. Upon approval of an application for the issuance of notice of the termination of a distiller's bond, Form 30, or indemnity bond, Forms 3, 3-A, or 1617, supported by collateral security, the district supervisor will fix the date or dates on which a part or all of the security may be released. In fixing such date, which ordinarily will be not less than six months from the date of determination that there is no outstanding liability against the bond, the district supervisor will satisfy himself that the

interests of the Government will not be jeopardized. Collateral pledged and deposited to support any such bond, will not be released by the district supervisor until liability under the bond has been terminated. At any time prior to the release of such collateral security, the district supervisor may, in his discretion, and for proper cause, further extend the date of release of the security for such additional length of time as in his judgment may be appropriate. Collateral pledged and deposited to support a distiller's bond (Form 30) or an indemnity bond (Form 3 or 3-A) will not be released by the district supervisor until all spirits produced while such bonds were in force and effect have been tax-paid or removed for a lawful tax-free purpose. Accordingly, collateral may not be released while spirits produced under such bonds remain in any internal revenue bonded warehouse. When an application for release of collateral deposited in support of a distiller's bond (Form 30) or an indemnity bond (Form 3 or 3-A) is received by the district supervisor, he will determine whether all spirits produced at the distillery while the bond was in effect have been withdrawn from warehouse and all outstanding liabilities settled, prior to taking action upon the application. Collateral pledged and deposited to support an indemnity bond (Form 1617) covering changes in buildings and equipment may be released by the district supervisor upon approval of a superseding bond or upon tax payment or removal for a lawful tax-free purpose of all spirits, the tax on which constituted the lien in relation to which the bond was given. Collateral pledged and deposited to support direct export bonds, or transportation for export bonds, will ordinarily be released by the district supervisor upon issuance of notice of the release of the bond, Form 1491.

(53 Stat. 373, as amended; 26 U. S. C. 3170; 44 Stat. 122 (6 U. S. C. 15))

SUBPART Q—WAIVER OF SURVEY REQUIREMENTS

§ 183.335 *Provisions of law from which exempt.* The survey requirements prescribed by section 2817 (a), I. R. C., are waived as to registered distilleries, and proprietors of such distilleries are relieved from the following provisions of law relating to the survey requirements:

(a) From so much of section 2812, I. R. C., as requires a distiller to state in his notice the number of hours in which the distiller will ferment each tub of mash or beer, and from the necessity of filing a notice of the change in the time of fermenting the mash or beer.

(b) From so much of section 2832, I. R. C., as requires the distiller to comply with the provisions of law relating to the survey of distilleries, as a condition precedent to carrying on the business of distilling.

(c) From the provisions of section 2840, I. R. C.

(d) From so much of the provisions of section 2846, I. R. C., as make a distiller liable to an assessment for a deficiency in producing less than 80 percent of the producing capacity of the distillery as estimated according to law; and as make him liable to an assessment for the tax

upon the spirits that should have been produced from the materials found to have been used in excess of the capacity of the distillery for any month as estimated according to law.

(e) From so much of the provisions of section 2849, I. R. C., as prescribe the fermenting periods.

(f) From so much of section 2851, I. R. C., as requires the placing of close fitting covers upon fermenting tubs, for the purpose of reducing the producing capacity of the distillery.

(53 Stat. 312, 373, as amended; 26 U. S. C. 2817, 3170)

§ 183.336 *Exemption subject to changes.* The exemption from the foregoing provisions of law will be subject to such changes as may be necessary to protect the revenue.

(53 Stat. 312, 373, as amended; 26 U. S. C. 2817, 3170)

SUBPART R—MANUFACTURE OF DISTILLED SPIRITS

KINDS OF MATERIALS AND SPIRITS

§ 183.350 *General.* Distilled spirits may be produced at registered distilleries from any kind of suitable materials, and at any desired proof. The production, gauging, marking and branding, and removal of spirits shall be in accordance with this part.

(53 Stat. 298, as amended, 333, 335, as amended; 26 U. S. C. 2800, 2878, 2883)

§ 183.351 *Alcohol.* Where it is desired to produce alcohol, the registered distillery must be discontinued in accordance with Subpart M of this part and reestablished and operated as an alcohol plant in accordance with Regulations 3 (26 CFR, Part 182) governing the production of alcohol.

(53 Stat. 359; 26 U. S. C. 3105)

§ 183.352 *Brandy.* Brandy may be produced at registered distilleries, subject to all the requirements of this part. Where the distiller desires to produce brandy under Regulations 5 (26 CFR Part 184) governing the production of brandy at fruit distilleries under the exemptions from law afforded fruit distillers by virtue of section 2825, I. R. C., the registered distillery must be discontinued in accordance with Subpart M of this part and reestablished and operated as a fruit distillery in accordance with such regulations.

(53 Stat. 316, as amended; 26 U. S. C. 2825)

COMMENCEMENT OF OPERATIONS

§ 183.353 *Notice, Form 125.* Before commencing operations at the distillery, the distiller shall file with the district supervisor notice on Form 125, in duplicate, specifying the date on which he desires to commence operations. This notice must be filed in time to enable the district supervisor to assign one or more storekeeper-gaugers to the distillery. If the distiller's bond, Form 30, and the other qualifying documents required by this part have been filed and approved, and the required storekeeper-gaugers assigned to the distillery have found the plant and equipment in proper condition, the distiller may commence operations at the time specified in the notice. Form

125 will not be required when operations are resumed pursuant to the filing of Form 1696.

(53 Stat. 324, 373, as amended; 26 U. S. C. 2850, 3170)

§ 183.354 *Assignment of storekeeper-gaugers.* One or more storekeeper-gaugers must be assigned to, and on duty at, each distillery before the distiller can commence operations. In determining the number of storekeeper-gaugers to be assigned to each distillery, the district supervisor will take into account the distilling equipment and the process to be used, the quantity of spirits to be produced daily, and the number of hours the distillery will be operated each day. When notices of commencement of operations are received, the district supervisor will assign storekeeper-gaugers in time to prevent unnecessary delays to distillers.

(53 Stat. 320; 26 U. S. C. 2838)

§ 183.355 *Examination of distillery.* Upon assignment to a distillery intending to commence operations, storekeeper-gaugers will, prior to the actual commencement of operations, examine the distillery, the apparatus and equipment, the cistern room, etc., and determine that all valves, flanges, and other connections which would afford access to spirits are properly equipped for locking or are brazed, welded, or otherwise secured, and that all doors and other openings in the cistern room are protected in the manner prescribed by this part. The storekeeper-gauger will apply Government locks wherever the same are required, and will complete Form 125, in duplicate, deliver one copy to the distiller, and forward the original to the district supervisor.

(53 Stat. 317; 26 U. S. C. 2827, 2828)

§ 183.356 *Supervision of operations.* The storekeeper-gauger will have charge of the distillery to which he is assigned, under the direction of the district supervisor. The storekeeper-gauger will see that the operations of the distillery conform to the requirements of the law and this part, and will, in the course of his daily duties, carefully observe the character and condition of all connections, pipes, tanks, or vessels used for conveying spirits in the course of distillation to see if they are continuous and closed as required, and whether access can be gained to the spirits in the storekeeper-gauger's absence. The storekeeper-gauger will promptly report to the district supervisor any distillery operations or condition of apparatus and equipment not conforming to the law and this part.

(53 Stat. 320; 26 U. S. C. 2838)

DISTILLING MATERIALS

§ 183.357 *Weighing materials received.* Except as provided in § 183.91, the distiller will weigh, or in the case of liquids, weigh or measure all materials received on the distillery premises intended for use in the production of distilled spirits. He will prepare weight or quantity slips of all such materials received and furnish signed copies to the storekeeper-gauger. He will maintain a

commercial record of all such materials received, showing the date of receipt, the name of the concern or person from whom the materials were purchased, and the kind and quantity of each material, and will report on Form 1598, the total quantity of each kind of materials received during the month: *Provided, however,* That the Commissioner or district supervisor may, in his discretion, require that daily receipts of materials be reported on Form 1598.

(53 Stat. 321; 26 U. S. C. 2941)

§ 183.353 *Storage of materials.* All grain received on the distillery premises will be stored in the meal or material room, bins, or granary, unless it is to be immediately used. Molasses and other liquid distilling materials will be stored in proper tanks provided for the purpose, unless they are to be immediately used.

§ 183.359 *Supervision of material room.* No materials shall be received on the premises of any registered distillery, or used for the production of distilled spirits or for any other purpose, or removed from the premises, except when the storekeeper-gauger is present on the distillery premises. The storekeeper-gauger will unlock the material room, bins, or tanks, at such time after the commencement of operations each day as may be necessary for the distiller to have access thereto, and will lock them when access for the day is no longer required, thus giving employees of the distillery access for the removal or deposit of materials, or for other necessary purposes, under his general supervision. When materials are received by chute or pipe line from adjacent premises, such chute or pipe line must be kept locked at all times with Government locks, except when necessary to be open for the transfer of materials.

§ 183.360 *Storekeeper-gauger's record of materials received.* The storekeeper-gauger will record on Form 1686 the total quantity of each kind of material received on the distillery premises, during the month, intended for use in the production of distilled spirits. Entries will be made from the distiller's weight or quantity slips. The storekeeper-gauger will verify such slips by comparison with the distiller's commercial records and his Form 1598.

(53 Stat. 333; 26 U. S. C. 2877)

§ 183.361 *Weighing materials used.* Distillers will weigh or, in the case of liquids, weigh or measure all materials used in the production of distilled spirits. They will prepare weight or quantity slips of all such materials, and will furnish signed copies to the storekeeper-gauger. The materials used will be recorded by the distiller on Form 1598.

(53 Stat. 321, 333; 26 U. S. C. 2941, 2877)

§ 183.362 *Storekeeper-gauger's record of materials used.* The storekeeper-gauger will record on Form 1686 all materials used in the production of distilled spirits. Entries will be made from the distiller's weight or quantity slips. The storekeeper-gauger will verify such slips by comparison with the distiller's

Form 1598 and commercial records, if any.

(53 Stat. 333; 26 U. S. C. 2877)

§ 183.363 *Distiller's material slips.* Each distiller will have prepared in uniform size material slips which show the name, number, and location of the distillery, and on which he will enter the date, kind and quantity of materials received and used, and the serial numbers of the fermenters filled, together with such other information as may be required. Where different types of mash are produced, separate entries shall be made showing the quantity of material, type of mash, and serial numbers of fermenters for each type. The term "type of mash" means the materials from which the mash is made, as molasses, wheat, corn in excess, rye in excess, etc. The information is necessary for the proper marking and branding of packages of distilled spirits. Material slips will be prepared in duplicate and will be filed chronologically, by months, by both the distiller and the storekeeper-gauger and will be retained for at least one year.

(53 Stat. 321, 373; 26 U. S. C. 2941, 3171)

§ 183.364 *Storekeeper-gauger's verification.* The storekeeper-gauger will, from time to time, personally verify the accuracy of the distiller's determination of the weight or quantity of materials received and used.

YEASTING

§ 183.365 *Materials for yeast mash.* Materials capable of producing spirits which are used in preparing yeast mash will be weighed or measured by the distiller, who will furnish weight or quantity slips to the storekeeper-gauger and will make proper record on Form 1598. If the materials used in the yeast mash have been included in the materials weighed or measured by the distiller for use in the production of the main mash, a notation should be made on the slip to that effect, and no separate entry will be made on Forms 1598 and 1686. Such weight or quantity slips will be filed by the storekeeper-gauger for record and reference purposes.

(53 Stat. 321, 373; 26 U. S. C. 2941, 3171)

§ 183.366 *Materials for yeast culture.* The distiller will not be required to furnish weight or quantity slips to the storekeeper-gauger of materials used in preparing pure yeast cultures or jug yeast which is added to the yeast mash, or to record the same on Form 1598. The pure yeast cultures or jug yeast may be prepared and held for use as needed.

§ 183.367 *Non-alcohol producing materials.* No non-alcohol producing materials may be added to the yeast mash for the purpose of furnishing yeast food, or for inhibiting the action of wild yeast or bacteria, or for any other purpose, unless such materials are included in the statement of process required by § 183.162.

(53 Stat. 391; 26 U. S. C. 3254)

MASHING OPERATIONS

§ 183.368 *Distiller's notice of change in materials and strength of beer.* The dis-

tiller may mash grain, molasses, or other fermentable materials covered by his notice, Form 27-A, in any quantity, proportion, or strength that he may desire, within the maximum specified in such notice, provided he shall give written notice to the storekeeper-gauger in charge of the distillery of the quantity of each kind of material which he proposes to mash, and the strength of the beer. When desiring to change the quantity or kind of materials or strength of the beer, he shall, before making such change, give written notice to the storekeeper-gauger in charge. Where the distiller intends to mash different kinds of materials than those covered by Form 27-A, or a larger quantity of the specified materials than the maximum indicated by such form, he must also comply with the requirements of § 183.132. If the proposed change in mashing is such that either a smaller or larger number of storekeeper-gaugers may be required to supervise operations, the distiller shall give notice thereof to the storekeeper-gauger in charge in sufficient time for the district supervisor to reassign the unneeded officers or to assign additional officers to the plant.

(53 Stat. 312; 26 U. S. C. 2817)

§ 183.369 *Non-fermentable materials.* No chemicals or other substances, such as essences, flavors, coloring matter, etc., which are volatile and would remain incorporated with the spirits when the manufacture thereof is complete may be added to the mash or to the spirits at any stage of production, except as otherwise provided in this part.

(53 Stat. 391; 26 U. S. C. 3254)

§ 183.370 *Presence of storekeeper-gauger required.* Any mashing or distilling in the absence of the storekeeper-gauger from the premises is prohibited. The special attention of distillers is directed to the penalties imposed by law for mashing, distilling, or removing spirits in the absence of the storekeeper-gauger.

(53 Stat. 320; 26 U. S. C. 2835)

FERMENTING

§ 183.371 *Restrictions removed.* The survey requirements being waived, as provided in § 183.335, proprietors of registered distilleries are not restricted as to the period of fermentation nor as to the frequency or extent of the filling of the fermenting tubs. The distiller must, however, give notice to the storekeeper-gauger in charge of the quantity of each kind of material which he proposes to mash and the strength of the beer, as provided in § 183.368, and when he intends to mash kinds of materials other than those covered by Form 27-A, or a larger quantity of the materials specified on the form than the maximum indicated thereon, he must file an amended notice on Form 27-A, as provided in § 183.132.

(53 Stat. 312; 26 U. S. C. 2817)

§ 183.372 *Quantity of mash and beer determined.* Storekeeper-gaugers assigned to distilleries will determine the number of gallons of mash in each fermenter at the time of filling and the

quantity of beer in each fermenter after fermentation is complete, and will enter the same on Form 1686. They will not be required to determine the temperature and gravity of the mash or beer in the fermenting tubs, or to ascertain the number of dry inches.

§ 183.373 *Tests of beer and slop.* At the time of distillation, the distiller will thoroughly agitate the contents of each fermenter and the storekeeper-gauger will then take a sample of beer from each fermenter to determine the alcoholic content of the beer. He will also take, daily, several representative samples of slop or spent beer after the same has come from the still, and determine the alcoholic content of each sample. He will make the tests of beer and slop and compute the calculated yield, in accordance with the instructions on Form 1686.

(53 Stat. 312; 26 U. S. C. 2817)

DISTILLATION

§ 183.374 *Continuous process required.* The process of distillation employed must be such that the spirits will pass through continuous, closed stills, pipes, and vessels from the time the vapors rise in the first still until the finished spirits are deposited in the cistern room in locked receiving cisterns provided for that purpose. The distiller may, in the course of manufacture, carry his product through as many distilling operations as he may desire, provided the process is closed and continuous. Distilling processes are deemed to be continuous where the spirits are carried through the various steps from the beer still to the receiving tanks as expeditiously as normal, efficient plant operation will permit in the manufacture of a finished product of standard quality. The collection of high and low wines (heads and tails) for the purpose of redistillation is not deemed to be a break in the continuity of the distilling process, but such spirits, when so collected, should be redistilled promptly when a sufficient quantity has been accumulated to permit efficient redistillation. Where spirits are percolated through oak chips or otherwise treated before deposit in the receiving tanks, the retention of the spirits in tanks temporarily, pending such treatment, is permissible, but no larger quantities of spirits may be so held than are necessary for operation of the percolators. The distilling process is held to be completed when the spirits are deposited in the receiving tanks.

(53 Stat. 314, 391; 26 U. S. C. 2820, 3254)

§ 183.375 *Gauging of unfinished spirits.* At distilleries where spirits, in the course of distillation, are run into tanks in the distillery building for temporary deposit preparatory to completing the distillation thereof, and where twenty-four-hour supervision is maintained by the storekeeper-gauger, a daily gauge of such spirits will not be required. Where twenty-four-hour supervision is not maintained, the storekeeper-gauger, prior to leaving the premises, will gauge (measure and proof) the spirits retained in each tank, make an office record of the quantity and proof of the spirits therein, and attach locks in accordance

with § 183.736: *Provided*, That where such tanks are enclosed in a room or building equipped for locking in accordance with § 183.64, such room or building will be locked in lieu of gauging the unfinished spirits. Upon his return to the premises the storekeeper-gauger will gauge the spirits in the tanks previously gauged and compare the quantity and proof with the office record. Any material discrepancy will be reported immediately to the district supervisor. Except as provided in §§ 183.655 to 183.665, unfinished spirits may not be stored in such tanks but may be deposited therein only temporarily in the course of distillation. At the close of the month the storekeeper-gauger will make an accurate gauge of all unfinished spirits on hand and report the total quantity on Form 1686. Distillates containing one-half of 1 percent or more of aldehydes or 1 percent or more of fusel oil, collected for destruction or for removal for denaturation, in accordance with the provisions of §§ 183.390 to 183.412, will be included in the report of inventory of unfinished spirits on Form 1686 until such distillates are destroyed or removed for denaturation. Fusel oil held in fusel oil tanks or in storage tanks pending removal, will not be included in the report of inventory of unfinished spirits.

LOCKING OF DISTILLERY

§ 183.376 *When to be locked.* Whenever spirits are contained at any place in the distillery other than under Government lock in the cistern room, or the temporary storage room therein, or in the rectifying room, the distillery building or portion thereof in which such spirits are contained must be kept securely locked by the distiller in the absence of himself or his agents. The locks used by the distiller to secure doors, windows, or other openings of the distillery buildings or portions thereof in which spirits are so contained must be such as will, in the opinion of the district supervisor, safeguard the spirits against illegal removal during the absence of the distiller or his agents.

§ 183.377 *Keys of distillery locks.* The distiller shall furnish the district supervisor as many keys to the locks provided for securing the entrance door or doors of the distillery building, or portions thereof, which are required to be locked, as may be deemed necessary by the district supervisor from time to time, in order that the distillery or any portion thereof may be accessible at any time to Government officers authorized to enter and inspect the premises.

TREATMENT OF SPIRITS IN COURSE OF DISTILLATION

§ 183.378 *Rectification.* The law provides that every person shall be regarded as engaged in the business of rectifying who rectifies, purifies, or refines distilled spirits by any process other than by original and continuous distillation from mash, wort, or wash, through continuous, closed vessels and pipes, until the manufacture thereof is complete. Therefore, a distiller may carry his product through as many processes of distillation as he may desire without

becoming liable as a rectifier, provided the process is continuous (as defined in § 183.374), commencing with the distillation of the mash, wort, or wash, and the product of distillation of the mash is carried through continuous closed vessels and pipes until the finished product is deposited in the receiving cistern: *Provided*, That the redistillation of spirits received in bond from an internal revenue bonded warehouse or another distillery pursuant to provisions of this part shall not constitute rectification.

(53 Stat. 335, as amended, 391; 26 U. S. C. 2833, 3254)

§ 183.379 *Purifying or refining spirits.* Under the law, distillers are allowed to purify or refine distilled spirits in the course of original and continuous distillation, including spirits received for redistillation, through any material which will not remain incorporated with such spirits when the manufacture thereof is complete. The apparatus to be used for purifying or refining spirits in a distillery must be arranged and constructed as required by this part.

(53 Stat. 335, as amended, 391; 26 U. S. C. 2833, 3254)

§ 183.380 *Percolation through oak chips.* Spirits may be percolated through or treated with oak chips which have not been treated with any chemical, upon approval of the process. The apparatus to be used for percolating spirits must be arranged and constructed as required by this part.

(53 Stat. 391; 26 U. S. C. 3254)

§ 183.381 *Samples before and after treating.* Where the distiller has been authorized to introduce materials or substances into spirits during the course of original and continuous distillation, for the purpose of purifying or refining the spirits, or where he has been authorized to introduce oak chips into the spirits, the storekeeper-gauger will procure samples of such spirits, both before and after processing, when the process is first used and thereafter from time to time as directed by the district supervisor. The samples will be submitted to the Government chemist for analysis. The chemist will furnish a report thereof, to the district supervisor.

(53 Stat. 391; 26 U. S. C. 3254)

§ 183.382 *Disposition of substances used for treating spirits.* Materials used for purifying or refining the spirits, and oak chips introduced into the spirits, will be thoroughly washed, steamed, or otherwise treated to extract the spirits therefrom before removal from the process. Upon removal, the materials must be burned in the distillery furnace or in the distillery yard. If such burning is not practicable, due to the type of furnace in use, fire regulations, or to other valid reason, such materials must be treated with kerosene before the removal thereof from the distillery premises. Where kerosene is used, it must be sprayed or sprinkled on the materials, using not less than 1 gallon of kerosene to each 100 pounds of materials, in such manner as to preclude the abstraction of potable spirits from any part of the entire mass after the materials are removed

from the distillery premises. This will be effected by stirring or agitating the materials while the kerosene is being applied. Such burning or treating of materials must be done under the supervision of the Government officer assigned to the plant. The district supervisor may authorize any other disposition of the materials as will effectively prevent recovery of spirits therefrom.

DEPOSIT OF SPIRITS IN RECEIVING CISTERNS

§ 183.383 *Immediate deposit required.* All finished spirits must be deposited immediately upon completion of manufacture in receiving cisterns in the cistern room. Finished spirits must be deposited in separate receiving cisterns according to (a) class (spirits, whisky, rum, gin, etc.); (b) type (neutral spirits-grain, bourbon whisky, rye whisky, etc.); and (c) proof of distillation (at or above 190 degrees, more than 160 degrees and less than 190 degrees, and not exceeding 160 degrees), as defined by § 183.25. The quantity of finished spirits produced will be determined and entered daily on Form 1686 and Form 1598.

(53 Stat. 314; 26 U. S. C. 2820)

COMPARISON OF ACTUAL YIELD WITH CALCULATED YIELD

§ 183.384 *Abnormal differences to be investigated.* The storekeeper-gauger will compare the quantity of spirits produced and deposited in the receiving cisterns with the calculated yield for the respective fermenters. The comparison will be made by single fermenters where it is possible so to do. Where, by reason of the mode of operation, it is not possible to make the comparison by single fermenters, it will be made by groups of fermenters distilled daily, if possible. If it is not possible to make the comparison either by single fermenters or by groups of fermenters distilled daily, the comparison will be made on a monthly basis or for such lesser periods as may be feasible. Where the difference between the calculated yield and the actual yield is more than that determined by experience to be the normal difference for the particular plant, the storekeeper-gauger assigned to supervise distilling operations and the storekeeper-gauger in charge will make a thorough inquiry to determine the reasons therefor, and will make a full report of their findings on Form 1686. Where the facts warrant, the officers will make a report by letter to the district supervisor and submit it with Form 1598 in accordance with § 183.701. If the findings of the officers do not fully explain the discrepancy, the district supervisor will cause such further investigation to be made as may be deemed advisable.

(53 Stat. 312; 26 U. S. C. 2817)

SUPERVISION OF CISTERN ROOM

§ 183.385 *In charge of storekeeper-gauger.* The receiving cisterns and the cistern room shall be in charge and under the lock and seal of the storekeeper-gauger designated for that duty. The doors and other openings of the cistern room will be locked with Government

locks at all times when spirits are in such room, except when spirits are being drawn off or other necessary work is being done by the distiller in the presence of the storekeeper-gauger. The entrance door will be locked on the outside with a seal lock and other doors will be locked on the inside, as provided in § 183.65. The openings in receiving cisterns will also be kept locked at all times, except the inlets of cisterns being filled and the outlets of cisterns being emptied, and the manheads when spirits are being agitated and reduced preparatory to withdrawal. The cistern room must not be opened or allowed to remain open, nor may any person other than a Government officer be permitted in the cistern room, except when the designated storekeeper-gauger is present; nor will the keys to the Government locks be entrusted at any time to the distiller or any person in his employ, but will be retained at all times in the possession of the designated storekeeper-gauger. The storekeeper-gauger will promptly report any lack of security of the cistern room to the district supervisor.

(53 Stat. 314; 26 U. S. C. 2820)

SUBPART S—COLLECTION AND REMOVAL OF DISTILLATES, DISTILLED SPIRITS UNFIT FOR BEVERAGE PURPOSES, DISTILLED WATER, FUSEL OIL, AND CARBON DIOXIDE

COLLECTION, REMOVAL FOR DENATURATION AND/OR DESTRUCTION OF CERTAIN DISTILLATES AND VOLUNTARY DESTRUCTION OF SPIRITS UNFIT FOR BEVERAGE PURPOSES

§ 183.390 *General.* Distillers may collect in locked tanks provided in accordance with § 183.103 distillates containing one-half of one percent or more of aldehydes or one percent or more of fusel oil, commonly known as "heads and tails", removed in the course of distillation. Such distillates may be removed from the distillery for denaturation or destroyed on the distillery premises. In addition, spirits which, during the process of distillation or after deposit in the receiving cisterns, are found to be unfit for use for beverage purposes may be voluntarily destroyed as provided by this subpart. The removal or destruction in any such case will be under the immediate supervision of the storekeeper-gauger assigned to the distillery. When so denatured or destroyed with proper authorization such distillates or spirits shall not be subject to the tax imposed by law on distilled spirits.

(53 Stat. 340, as amended, 346, 373, as amended; 26 U. S. C. 2901, 2916, 3170)

§ 183.391 *Collection of distillates.* Distillates containing one-half of 1 percent or more of aldehydes or 1 percent or more of fusel oil, collected in locked tanks at registered distilleries shall be removed for denaturation or destroyed within 30 days from the date of commencement of the collection thereof, unless the distillates are to be shipped for denaturation and the quantity collected during such period is insufficient for a carload shipment (but not over 10,000 gallons), in which event the distiller may continue to accumulate such distillates until a sufficient quantity for a carload shipment has been collected: *Provided, That no such distillates shall*

be held at the distillery for a period exceeding 90 days.

(53 Stat. 346; 26 U. S. C. 2916)

§ 183.392 *Samples by distiller.* Distillers may procure a requisite number of samples for laboratory analysis of the distillates, and of any spirits that appear to be unfit for beverage purposes. Such samples will be procured in accordance with the procedure prescribed in §§ 183.467-183.474.

(53 Stat. 340, as amended, 346; 26 U. S. C. 2901, 2916)

§ 183.393 *Aldehydes and fusel oil not to be mixed with spirits.* Where aldehydes or fusel oil, as distinguished from heads and tails, are drawn from column stills and run into separate tanks, such aldehydes and fusel oil may not be mixed with spirits for the purpose of making such spirits eligible for destruction or denaturation free of tax.

(53 Stat. 346; 26 U. S. C. 2916)

§ 183.394 *Application.* Whenever the distiller desires to destroy distillates or to remove same to a denaturing plant for denaturation, he shall make application, in triplicate, to the district supervisor, for such permission. The application shall be made on Form 1577 if the distillate is to be destroyed, or on Form 1578 if the distillate is to be removed for denaturation. Where the distiller desires to destroy spirits which are purportedly unfit for beverage purposes, he will make application to the district supervisor on Form 1577, in triplicate, properly modified, specifying the kind of spirits; the proof; proof gallons; the name, address and registry number of the distillery; the date of distillation; serial numbers of the tanks or other receptacles in which such spirits are contained; and the condition of the spirits which renders them unfit for beverage purposes. The applications in each case will be submitted through the storekeeper-gauger assigned to the distillery.

(53 Stat. 340, as amended, 346; 26 U. S. C. 2901, 2916)

§ 183.395 *Action by storekeeper-gauger.* Upon receipt of the application, the storekeeper-gauger will inspect the distillate or spirits to determine the correctness of the distiller's statements, procure a one-pint sample, or if deemed advisable, a one-quart sample from each tank or other receptacle, label each sample for proper identification, note on each copy of the application the serial number of each sample, the serial number of the tank or other receptacle from which samples were removed and the date of removal. Where an application is filed for destruction of spirits unfit for beverage purposes, the storekeeper-gauger will prepare a report of his inspection of such spirits relating to the condition thereof. The inlet of each tank or receptacle must be closed and locked and the contents thoroughly agitated before a sample is taken. The inlet, outlet, and all other openings of the tank will be secured with Government locks pending analysis of the sample and action on the application. The storekeeper-gauger will submit the samples to the district chemist, at the

distiller's expense, accompanied by a transmittal letter, in duplicate, and will submit all copies of the application and his report, if any, to the district supervisor.

(53 Stat. 340, as amended, 346, 373, as amended; 26 U. S. C. 2901, 2916, 3170)

§ 183.396 *Analysis of samples.* The district chemist will analyze each sample to determine the percentages of aldehydes or fusel oil and alcohol present in distillates, or the condition of spirits that would render them unfit for beverage purposes, and will submit a report of his analysis, in duplicate, to the district supervisor.

(53 Stat. 340, as amended, 346, 373, as amended; 26 U. S. C. 2901, 2916, 3170)

§ 183.397 *District supervisor's order to gauge.* If the chemist's report shows that the distillate contains one-half of 1 percent or more of aldehydes or 1 percent or more of fusel oil, or that the spirits are unfit for beverage purposes, the district supervisor will execute his order to the storekeeper-gauger on Form 1577 or 1578, as the case may be, directing him to gauge the distillate and supervise its destruction or removal to the denaturing plant named in the application upon presentation of proper permit as provided by § 183.402; or, in the case of spirits found to be unfit for beverage purposes, directing the storekeeper-gauger to gauge such spirits, and authorizing the destruction thereof by the distiller, under the supervision of the storekeeper-gauger. The district supervisor will forward all copies of the application, accompanied by one copy of the chemist's report, to the storekeeper-gauger at the distillery.

(53 Stat. 340, as amended, 346, 373, as amended; 26 U. S. C. 2901, 2916, 3170)

§ 183.398 *Disapproval of application.* If the report of the Government chemist shows that the distillate contains less than the required percentage of aldehydes or fusel oil, or that spirits proposed for destruction are fit for beverage purposes, the district supervisor will disapprove the application and return one copy to the distiller and one copy to the storekeeper-gauger at the distillery, accompanied by a statement of the reasons for disapproval.

(53 Stat. 340, as amended, 346, 373, as amended; 26 U. S. C. 2901, 2916, 3170)

§ 183.399 *Distillates or spirits not meeting requirements for denaturation or destruction.* Where distillates are of insufficient proof for denaturation, or contain less than the required percentage of aldehydes or fusel oil, or where spirits proposed for destruction are found to be fit for beverage purposes, they may, for the purpose of further distillation, be returned to the still through continuous closed pipe lines. Should the distiller still desire to remove or destroy the distillates after such redistillation, a new application and new samples must be submitted, in accordance with §§ 183.394 and 183.395.

(53 Stat. 340, as amended, 346, 373, as amended; 26 U. S. C. 2901, 2916, 3170)

§ 183.400 *Gauge of distillate or spirits.* The storekeeper-gauger will

gauge the distillates authorized to be removed for denaturation or destruction or the spirits authorized to be destroyed, and will enter the details of such gauge on Form 1520. The form will be prepared in triplicate, if the distillate or spirits are to be destroyed, and in quintuplicate if the distillate is to be removed for denaturation. An extra copy of Form 1520 will be prepared when the distillate is to be shipped to a denaturing plant in another district.

(53 Stat. 340, as amended, 346, 373, as amended; 26 U. S. C. 2901, 2916, 3170)

§ 183.401 *Destruction of distillates or spirits.* The distillate or spirits authorized to be destroyed may be run into the sewer or destroyed by other suitable means. The destruction must be accomplished under the immediate supervision of the storekeeper-gauger. When the distillate or spirits have been destroyed, the storekeeper-gauger will execute his report on Part 3 of Form 1577, and will attach a copy of the gauge report to each copy of Form 1577, and deliver one set of the forms to the distiller, forward one set to the district supervisor and retain one set for his files. The storekeeper-gauger will report such destruction on Form 1686.

(53 Stat. 340, as amended, 346, 373, as amended; 26 U. S. C. 2901, 2916, 3170)

§ 183.402 *Release for denaturation.* The distillate may be removed for shipment to a denaturing plant for denaturation pursuant to a special permit issued by the appropriate district supervisor on Form 1464, authorizing the denaturer to procure the same. The storekeeper-gauger will not release the distillate for shipment until the distiller has presented to him such special permit for examination. The distillate must be drawn into packages and gauged and marked and branded, as provided in §§ 183.400 and 183.403, or gauged and run into railroad tank cars in accordance with the provisions of § 183.404 and immediately removed from the distillery premises under the personal supervision of the storekeeper-gauger. When such impure spirits are removed from the distillery for denaturation they must in each instance be shipped to a denaturing plant. Such spirits may not be shipped to an alcohol plant or an alcohol bonded warehouse, nor may they, after receipt at a denaturing plant, be redistilled or used for any purpose other than for denaturation.

(53 Stat. 346; 26 U. S. C. 2916)

§ 183.403 *Marking and branding of packages.* When the distillate is drawn into packages for removal for denaturation, such packages shall be marked and branded in the same manner as packages of other spirits are required to be marked and branded when removed from the distillery for deposit in a bonded warehouse, except that (a) the kind of spirits shall be designated by the words "Impure Spirits—For Denaturation," plainly and durably stenciled or marked on the head of the package in letters not less than three-fourths inch in height; (b) the phrase "Contains _____% of aldehydes," or "Contains _____% fusel oil," or "Contains _____% aldehydes and _____% fusel oil," shall also be plainly and durably stenciled or marked on the

head of the package following the words "Impure Spirits—For Denaturation"; and (c) the proof at which the spirits were distilled need not be placed upon the package.

(53 Stat. 346; U. S. C. 2916)

§ 183.404 *Removal in tank cars.* The removal of such distillate in railroad tank cars from the distillery to the denaturing plant for denaturation shall be in accordance with the procedure (insofar as applicable) and under the conditions governing the removal and transfer of other spirits in bond in such tank cars, as prescribed in this Part. The markings prescribed in § 183.403 respecting the kind of spirits and the percentage of aldehydes or fusel oil therein, shall be added to the label the storekeeper-gauger is required to affix to such tank cars of distillates before they are released.

(53 Stat. 346; 26 U. S. C. 2916)

§ 183.405 *Report of shipment to denaturing plant.* When such distillates are released from the distillery for transportation to the denaturing plant, the storekeeper-gauger will execute his report on Part 3 of Form 1578 and will attach to each copy of such form a copy of the report of gauge. The storekeeper-gauger will forward one copy of Form 1578, with Form 1520 attached, to the supervisor of the district from which the shipment is made, retain one copy of each form on file, deliver one copy of each form to the distiller, forward one copy of Form 1520 to the proprietor of the denaturing plant and one copy to the storekeeper-gauger at the denaturing plant. Where the denaturing plant is in another district the extra copy of Form 1520 provided for in § 183.400 will be forwarded to the supervisor of such district.

(53 Stat. 346; 26 U. S. C. 2916)

§ 183.406 *Inspection at denaturing plant.* The storekeeper-gauger at the receiving denaturing plant will examine each shipment of the distillate upon its arrival and will report any losses or discrepancies in accordance with the procedure prescribed by Regulations 3 (26 CFR, Part 182).

(53 Stat. 346; 26 U. S. C. 2916)

§ 183.407 *Regauge at denaturing plant.* Upon completion of the storekeeper-gauger's inspection, the distillate will be gauged by the proprietor of the denaturing plant in accordance with the procedure prescribed by Regulations 3 (26 CFR, Part 182).

(53 Stat. 346; 26 U. S. C. 2916)

§ 183.408 *Losses of distillates or spirits.* The procedure prescribed by §§ 183.595-183.604 will be followed in connection with losses of such distillates or spirits while on the premises of a registered distillery. The liability of the distiller to tax on such distillates removed for denaturation shall continue until they have been deposited in the denaturing plant.

(53 Stat. 340, as amended, 346; 26 U. S. C. 2901, 2916)

§ 183.409 *District supervisor's account.* An account of losses of distillates con-

taining one-half of 1 percent or more of aldehydes or 1 percent or more of fusel oil shall be kept on Form 1691. The account shall show all the information as indicated in the heading and by the various columns and as required by instructions issued in respect thereto and by this part.

(53 Stat. 346; 26 U. S. C. 2916)

§ 183.410 *Use for denaturation.* If the impure spirits (distillate) are of improper proof for denaturation, they may be mixed with other spirits of higher proof at the denaturing plant in order to obtain the required proof for denaturation.

(53 Stat. 346; 26 U. S. C. 2916)

§ 183.411 *Storekeeper-gauger's records.* Distillates collected for destruction or for removal for denaturation will be included by the storekeeper-gauger in the inventory of unfinished spirits reported on Form 1686 until gauged and destroyed or removed for denaturation.

(53 Stat. 346; 26 U. S. C. 2916)

§ 183.412 *Distiller's records.* Distillates collected for destruction or for removal for denaturation, or spirits held pending authorization for destruction, will be included in the inventory of unfinished spirits reported by the distiller on Form 1598 until gauged and removed for denaturation or destroyed, whereupon appropriate entries will be made on Form 1598 covering the disposition of such distillates or spirits.

(53 Stat. 340, as amended, 346, 373; 26 U. S. C. 2901, 2916, 3171)

COLLECTION AND REMOVAL OF DISTILLED WATER

§ 183.413 *Collection.* If distilled water is collected at the distillery, it must be run into storage tanks provided in accordance with § 183.106 and retained therein until drawn off and removed as provided by §§ 183.414-183.416.

§ 183.414 *Removal.* Distilled water must be drawn off into barrels or other containers prior to removal from the distillery premises: *Provided,* That such water may be transferred off the distillery premises to contiguous plants operated under internal revenue laws, including tax-paid bottling houses, by means of an independent pipe line constructed and installed in accordance with the provisions of § 183.106. Distilled water must under no circumstances be drawn off or removed through the cistern room or the bonded warehouse. Barrels or other wooden containers in which distilled spirits were previously packaged may not be used for the removal of distilled water.

§ 183.415 *Marking of packages.* If distilled water is drawn into packages for removal from the distillery premises, such packages must be marked by the distiller with his name, distillery number, location (city or town and State), the words, "Distilled Water," and the date of removal, in distinct and legible letters.

§ 183.416 *Supervision of removal.* All distilled water when drawn into

packages for removal, or when removed by pipe line, must be inspected by the storekeeper-gauger and removed under his immediate supervision. The distiller will enter all removals of distilled water on Form 1598, as indicated by the columns and lines provided therefor and in accordance with the instructions on the form.

COLLECTION AND REMOVAL OF FUSEL OIL

§ 183.417 *Collection.* If fusel oil is collected at the distillery, it must be run into locked tanks provided for the purpose in accordance with § 183.105, and retained therein until tested and removed from the distillery premises or transferred to storage tanks. The test of fusel oil for the purpose of determining the presence of ethyl alcohol therein must be made in accordance with the requirements of §§ 183.419-183.422, or by such other method as may be prescribed by the Commissioner.

§ 183.418 *Storage.* Where fusel oil is transferred from the tanks in which it is collected in the course of distillation to storage tanks for temporary storage pending removal from the distillery premises, it must be tested as provided in § 183.421 immediately before being deposited in the storage tanks and immediately before being drawn therefrom into shipping containers.

§ 183.419 *Washing and purifying.* The oil must be thoroughly washed and purified, and before being removed from the tanks in which collected or stored it must be well mixed and a sample drawn from each tank into a test tube to be provided by the proprietor for use by the storekeeper-gauger in determining whether the oil is substantially free from alcohol.

§ 183.420 *Test tube.* The test tube must be of glass, bulb-shaped, and closed at one end, having a graduated scale marked upon the glass in degrees from 0 near the top to 100 near the swell of the bulb. The bulb shall contain three times as much liquid as that portion of the tube which is graduated from 0 to 100.

§ 183.421 *Test.* The tube having been filled with saturated salt solution up to the mark 100, oil shall be added until the tube is filled to the mark 0. The oil and saturated salt solution shall then be thoroughly mingled by violently agitating the contents of the tube. If, after sufficient time has been allowed for the oil to separate fully from the saturated salt solution and resume its position at the top of the tube, the scale shall show that not more than 10 degrees or 10 percent of the oil has disappeared or been dissolved in the saturated salt solution, the oil shall be passed as merchantable, that is to say, containing so small a quantity of alcohol as to remove all practical possibility of recovering the same, but if over 10 degrees of oil disappears the oil shall not be considered as sufficiently purified, and may not be removed in that condition.

§ 183.422 *Saturated salt solution.* The saturated salt solution to be used is a solution of common table salt in water, containing all the salt which the water is

capable of dissolving. The solution is to be provided by the distiller.

§ 183.423 *Containers.* Fusel oil which meets the requirements of the prescribed test may be removed from the distillery in barrels, drums, or similar packages or tank cars. Packages containing such fusel oil shall be marked by the distiller with his name, distillery number, location (city or town and State), the words "Fusel Oil," and the date of removal, in distinct and legible letters. When removal is made in tank cars the distiller will affix to each car a label containing such data.

§ 183.424 *Supervision.* All fusel oil must be removed from the distillery under the immediate supervision of the storekeeper-gauger.

§ 183.425 *Record of removal.* The storekeeper-gauger will prepare Form 1520 in triplicate covering removals of fusel oil. Such removals will be entered on Forms 1598 and 1686. The storekeeper-gauger will give a copy of Form 1520 to the distiller, retain one copy and forward the remaining copy to the district supervisor.

§ 183.426 *Disposition of washwater.* The water used for washing or purifying the oil in the tanks may be conveyed directly to a still, or it may be run into a tank, beer well, or sewer, or it may be otherwise destroyed on the premises under the supervision of the storekeeper-gauger. If the washwater is run into a still, tank, or beer well, the quantity will not be entered on Form 1598 or 1686. If the washwater is run into a sewer or otherwise destroyed, the alcoholic content and quantity will be reported by the storekeeper-gauger on Form 1520. Entry of such disposition will be made on Forms 1598 and 1686.

RECOVERY AND REMOVAL OF CARBON DIOXIDE

§ 183.427 *Procedure.* Carbon dioxide may be recovered from fermenters and removed from distillery premises, provided it is first thoroughly washed or scrubbed and purified to remove the alcohol therefrom. Where carbon dioxide is recovered, the washwater may be collected in a receiving tank and transferred by pipe line to a fermenter or to a beer well. Where the washwater is transferred to a fermenter, the transfer must be made prior to the testing of the beer by the storekeeper-gauger at the time of distillation. Where the washwater is to be transferred to a beer well after the calculated yield has been determined, the alcoholic content, the number of gallons, and the calculated yield thereof, will be determined by the storekeeper-gauger and interlined in Part 1 of Form 1686. The alcoholic content of the washwater will be determined in accordance with an approved method. The number of gallons will also be interlined in Part 1 of Form 1598. If the washwater is not utilized in the manufacture of distilled spirits, it will be run into the sewer or otherwise destroyed on the premises under the supervision of the storekeeper-gauger. Entry of such disposition will not be made on Forms 1598 and 1686.

SUBPART T—DISTILLED SPIRITS FOR
REDISTILLATION

RECEIPTS FOR REDISTILLATION

§ 183.435. *General.* Distilled spirits may be received at the distillery for redistillation, upon the showing of a need therefor, and pursuant to an approved application in accordance with §§ 183.426-183.437. Spirits of any proof may be received in approved containers, including tank cars, from the distillery cistern room of any other distillery, or by pipe line from the cistern room of a contiguous distillery; or in approved containers from any internal revenue bonded warehouse. Spirits of 160 degrees or more of proof may be received by pipe line from storage tanks in an internal revenue bonded warehouse located on the distillery premises or contiguous thereto, or in tank cars from any internal revenue bonded warehouse. Spirits received in tank cars may be transferred to tanks by means of a hose connection under the immediate supervision of a Government officer. Where spirits are received in packages, the packages, including char and chips, if any, contained therein, shall be thoroughly rinsed. The rinse water shall be added to the spirits for redistillation. The char and chips will be disposed of in the manner prescribed in § 183.382. The consignee distiller shall assume the liability for all taxes and liens on such spirits from the time they leave the premises of the consignor distillery or warehouse and, upon redistillation, the redistilled spirits shall be treated the same as if the spirits were originally produced by the redistiller and all prior obligations as to taxes and liens on such spirits shall be superseded.

(53 Stat. 335, as amended; 26 U. S. C. 2883)

§ 183.436. *Special application for permission to receive spirits for redistillation.* A distiller desiring to receive spirits for redistillation shall make written application to the district supervisor of the district in which the applicant's distillery is located for permission to receive and redistill such spirits. Each such application shall be prepared in quadruplicate, serially numbered, beginning with No. 1, and contain the following information:

- The kind of spirits and the approximate date of production;
- The name, registry number and location of the producing distiller;
- Approximate proof of original distillation;
- The approximate quantity, proof and proof gallons of the spirits to be redistilled;
- The name, registry number and location of the distillery or warehouse from which such spirits will be removed;
- The serial numbers of packages, tanks or other receptacles in which such spirits are contained, if known;
- The method of transportation by which the spirits will be conveyed to the redistiller's premises;
- Statement of the process by which redistillation of the spirits will be accomplished, including any special treatment or process to be used;

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(i) The type of spirits to be produced by the redistillation and approximate proof at which such spirits will be redistilled;

(j) The approximate period of time necessary to complete redistillation of all spirits covered by the application;

(k) Statement of condition and necessity for redistillation of the spirits.

The application may cover several lots of spirits or may be of a continuing nature for a stated period of time.

(53 Stat. 335, as amended; 26 U. S. C. 2883)

§ 183.437. *Action by district supervisor.* Upon receipt of an application for permission to receive spirits for redistillation, the district supervisor will determine whether all required information has been furnished. If, in the opinion of the supervisor, the redistillation of the spirits is justified, he may authorize removal of the spirits subject to such conditions and restrictions as are deemed necessary for protection of the revenue. He will also determine whether the applicant distiller's bond, or consent of surety filed in support thereof, covers such removals, and that the penal sum of the bond thereof is sufficient, and will note the amount of the bond, if less than the maximum, and his approval on each copy of the application, retain one copy, forward one copy to the storekeeper-gauger assigned to the applicant's premises and forward the original and the remaining copy to the applicant. Where approval of an application is conditional or subject to restrictions, such conditions will be stipulated on the application at the time of approval by the supervisor. In case the application is disapproved, the supervisor will note his disapproval on each copy of the application with statements as to reason or reasons therefor, retain one copy of the application, and return the remaining copies to the applicant.

(53 Stat. 335, as amended, 373, as amended; 26 U. S. C. 2883, 3170)

§ 183.438. *Form 236.* Upon receipt of an approved special application for permission to receive spirits for redistillation, the consignee distiller shall prepare application on Form 236, properly modified for that purpose, for transfer of such spirits, and will enter thereon the serial number and date of the special application authorizing such removal. Where the special application covers removal of several lots of spirits for redistillation over an extended period of time, it will involve the use of multiple sets of Forms 236; however, in no case shall the total quantity represented by the Forms 236, singly or collectively, exceed the maximum quantity of spirits stated in the approved special application covering such removals. Where the consignor distillery or warehouse is located in the same supervisory district, the original and five copies of the Form 236 will be prepared and delivered to the storekeeper-gauger; the original and six copies if the consignor distillery or warehouse is located in a different district. The storekeeper-gauger will execute his certificate on all copies of the Form 236, indicating that the distiller's bond is sufficient to cover the redistillation of the

spirits described, pursuant to the district supervisor's notation as to bond coverage on the special application and will return all copies to the distiller. The distiller will forward all copies of the approved Form 236 and one copy of the approved special application to the consignor distiller or warehouseman.

(53 Stat. 335, as amended; 26 U. S. C. 2883)

§ 183.439. *Quantity to be determined at time of receipt.* Where spirits for redistillation are received in approved containers, including tank cars, the actual quantity of spirits received will be ascertained by appropriate gauge and immediately transferred to tanks conforming to § 183.96, or introduced into the distilling system where the redistillation is to be accomplished simultaneously with primary distillation of other distilling materials. Where spirits for redistillation are introduced directly into the distilling system, the system must be locked and sealed in such a manner as to prevent access to its contents: *Provided,* That where small quantities of spirits for redistillation are to be mingled with beer in a fermenter or beer well, locking facilities will not be required where the volume of spirits is less than five percent of the volume of the beer. Such spirits received in tank cars may be conveyed directly into the weighing tank in the cistern room for gauging prior to deposit in the tanks or distilling system. Spirits received by pipe line for redistillation from a contiguous distillery or warehouse must be deposited directly into tanks on the redistiller's premises. Spirits produced from different type materials, such as grain, cane and fruit, must be deposited in separate tanks and redistilled separately or introduced into the distilling system with the same type of distilling material from which such spirits were originally produced. The storekeeper-gauger shall note the actual quantity received in proof gallons on each copy of the gauge report covering transfer of the spirits and use such information respecting the making or verification of entries in monthly records and reports, as to the quantity and type of distilling material thus received.

(53 Stat. 335, as amended; 26 U. S. C. 2883)

§ 183.440. *Losses in transit of spirits received for redistillation.* Where the gauge of spirits received for redistillation discloses deficiencies between the shipping and receiving gauges that cannot be attributed to normal transit losses or variation in gauge the applicable procedure prescribed by §§ 183.595-183.605 will be followed. In all cases the actual quantity of spirits received for redistillation and the quantity lost in transit, as indicated by comparison of the shipping and receiving gauges, will be entered by the storekeeper-gauger on the Form 236 and Form 1520 covering transfer of each lot of spirits received for redistillation. The storekeeper-gauger in charge will retain one copy each of Forms 236 and 1520, give one copy each of Forms 236 and 1520 to the distiller and forward one copy each of such forms to his district supervisor in the case of intradistrict transfers; two copies of Form 236 and one copy of Form 1520 in the case of interdistrict

transfers, in which case the district supervisor will forward the extra copy of Form 236 to the supervisor-consignor.

(53 Stat. 335, as amended; 26 U. S. C. 2883)

§ 183.441 *Redistillation of spirits.* Spirits received at a registered distillery for redistillation must be redistilled as expeditiously as normal distilling operations will permit. The spirits introduced into the distilling system shall be entered in proof gallons according to class and type by the proprietor and the storekeeper-gauger on their respective records as materials used. Where spirits received for redistillation are commingled with beer in a fermenter, the transfer must be made prior to the testing of the beer by the storekeeper-gauger at the time of distillation. Where such spirits are transferred to the beer well after the calculated yield has been determined, the actual quantity of spirits in proof gallons, thus introduced, will be reported separately as the calculated yield to be entered in Form 1686 by the storekeeper-gauger. Spirits received for redistillation may be treated in any manner during the course of redistillation provided such treatment is included in the statement of process filed pursuant to § 183.162. Different kinds of spirits received for redistillation must be redistilled separately, or with distilling material of the same type as that from which such spirits were originally produced, and, except where used in the manufacture of gin, such spirits may not be redistilled at a proof lower than that specified for the class and type at which such spirits were originally produced. Where spirits for redistillation are on hand at the time the distillery is qualified for alternate operations as an industrial alcohol plant or fruit distillery, such spirits will be gauged and held in closed, locked tanks until the distillery re-qualifies as a registered distillery as provided for in this part.

(53 Stat. 335, as amended; 26 U. S. C. 2883)

§ 183.442 *Deficiencies in redistillation.* Deficiencies which occur during the redistillation of spirits received for that purpose will be treated the same as those which occur during the process of original distillation. In any case where the deficiency in redistillation of any particular lot or lots of spirits exceeds that which may be attributed to normal redistillation deficiencies, the storekeeper-gauger will make proper inquiry and appropriate investigation to determine the cause thereof, and both the distiller and the storekeeper-gauger will make explanatory statements relative to such deficiencies in the proper records.

(53 Stat. 335, as amended; 340, as amended; 26 U. S. C. 2883, 2901)

§ 183.443 *Deposit in receiving cisterns.* Upon completion of redistillation of spirits received for that purpose, the redistilled spirits shall be treated the same as if such spirits were originally produced by the redistiller and deposited in the receiving cisterns in accordance with the requirements of § 183.383. Where such spirits were redistilled separately, the comparison of actual and calculated yields will be made in accordance with the provisions of § 183.384 insofar as ap-

plicable. Such spirits shall be withdrawn from the cistern room in the same manner as other spirits originally produced at the distillery and may be withdrawn for any of the purposes authorized by this part.

(53 Stat. 335, as amended; 26 U. S. C. 2883)

REMOVALS FOR REDISTILLATION

§ 183.444 *Gauge of spirits.* Upon receipt of application, Form 236, and the copy of the special application authorizing removal, the distiller, when he desires to make shipment, will give a copy of Form 236 to the storekeeper-gauger, furnish a complete description of the spirits to be shipped and exhibit to him the approved special application. Where the spirits are removed to a contiguous distillery by pipe line, they may be gauged in weighing tanks either before removal or upon receipt. The storekeeper-gauger will verify the information shown on Form 236 with the corresponding information on the application. He will prepare his report of gauge on Form 1520. An original and 4 copies will be prepared for intradistrict shipments and an original and 5 copies for inter-district shipments. The marking of containers will be made in accordance with § 183.524 insofar as applicable, and, in addition to required transfer-in-bond markings for containers of spirits removed for redistillation, there will be stenciled thereon the words, "For Redistillation." The storekeeper-gauger will note on all gauge reports covering removal of spirits for redistillation the words, "For Redistillation," followed by the serial number and date of the special application authorizing such removal. Spirits may not be removed for redistillation until the proper authorization has been received at the consignor premises and exhibited to the storekeeper-gauger in charge who will determine that the quantity of spirits to be removed does not exceed the maximum stated in any particular application on Form 236 or the related special application, and, where previous removals have been made under the same special application, that the total of such removals are not in excess of the maximum quantity authorized by the special application. Forms 236 and 1520 will be disposed of in accordance with § 183.572 for intradistrict transfers and § 183.580 for interdistrict transfers.

(53 Stat. 335, as amended, 492; 26 U. S. C. 2883, 4017)

§ 183.445 *Records.* Spirits removed from a registered distillery to another distillery, for redistillation, shall be reported and accounted for by the proprietor on Form 1598. In addition, there shall be entered on the line where each such entry for withdrawal is shown, the notation, "For Redistillation," followed by the serial number and date of the special application authorizing the transfer of the spirits for redistillation.

(53 Stat. 335, as amended, 373; 26 U. S. C. 2883, 3171)

SUBPART U—THE TAX ON DISTILLED SPIRITS

§ 183.450 *Rate of tax.* The law imposes a tax on distilled spirits produced

in, or imported into, the United States, at the rate prescribed therein, on each proof gallon, or wine gallon when below proof, and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon, to be paid when withdrawn from bond.

(54 Stat. 552, as amended; 53 Stat. 298, as amended; 26 U. S. C. 1650, 2800)

§ 183.451 *Attachment of tax.* Under the law, the tax attaches to distilled spirits as soon as such substance comes into existence as such, whether it be subsequently separated as pure or impure spirit, or be immediately, or at any subsequent time, transferred into any other substance, either in the process of original production or by any subsequent process.

(53 Stat. 298, as amended; 26 U. S. C. 2800)

§ 183.452 *Persons liable for tax.* The law provides that every proprietor or possessor of, and every person in any manner interested in the use of, any still, distillery, or distilling apparatus, shall be jointly and severally liable for the taxes imposed by law on the distilled spirits produced therefrom.

(53 Stat. 298, as amended; 26 U. S. C. 2800)

LIEN FOR TAX ON DISTILLED SPIRITS

§ 183.453 *Tax to be first lien.* Except as provided in § 183.455 the tax on distilled spirits becomes, under the law, a first lien on the spirits distilled, the distillery used for distilling the same, the stills, vessels, fixtures, and tools therein, the lot or tract of land whereon said distillery is situated, and on any building thereon, from the time said spirits are in existence as such until the tax is paid: *Provided*, That where spirits are removed for redistillation, the consignee distiller shall assume the liability for payment of the tax on such spirits from the time they leave the internal revenue bonded warehouse or distillery, and the tax liability on the producing distiller or the warehouseman, and the liens on the premises of the producing distiller shall cease, and the tax and liens shall become the liability of the consignee distiller. Upon redistillation of such spirits, the redistilled spirits shall be treated the same as if the spirits had been originally produced by the redistiller and all prior obligations as to taxes and liens shall be superseded.

(53 Stat. 298, as amended, 335, as amended; 26 U. S. C. 2800, 2883)

§ 183.454 *Assessments become lien.* Except as provided in section 183.455, all assessments made by the Commissioner upon examination of the distiller's monthly return, become a lien, from the time the assessment is made until the same shall have been paid, on all distilled spirits on the distillery premises, the distillery used for distilling the same, the stills, vessels, fixtures, and tools therein, the tract of land whereon the said distillery is located, and any building thereon.

(53 Stat. 323; 26 U. S. C. 2846)

§ 183.455 *Exemption from lien.* No lien attaches to any lot or tract of land, distillery, building, or distilling apparatus by reason of distilling done during

any period included within the term of any bond taken on Form 3-A, pursuant to § 183.143.

(53 Stat. 298, as amended; 26 U. S. C. 2800)

§ 183.456 *Extinguishment of lien.* Any lien under section 2800 (e), I. R. C., on any land, or any building thereon, shall be held to be extinguished if (a) such land and building are no longer used for distillery purposes, and (b) there is no outstanding liability for taxes or penalties imposed by law on the distilled spirits produced therein, and (c) no litigation is pending in respect to any such tax or penalty.

(53 Stat. 298, as amended; 26 U. S. C. 2800)

§ 183.457 *Certificate of discharge of lien.* Any person claiming any interest in any such land or building may apply to the district supervisor for a duly acknowledged certificate to the effect that such lien is discharged, and, if the district supervisor determines that any such lien is extinguished, he shall issue such certificate, and any such certificate may be recorded.

(53 Stat. 298, as amended, 373, as amended; 26 U. S. C. 2800, 3170)

SUBPART V—SAMPLES OF DISTILLED SPIRITS

§ 183.465 *Unfinished spirits.* Upon approval by the storekeeper-gauger in charge at the distillery of an application submitted in accordance with the provisions of § 183.467, the distiller may remove for laboratory analysis samples of distilled spirits in the course of distillation and prior to their deposit in the cistern room, as follows:

(a) Samples, not exceeding three pints in the aggregate, of the product of each still in a distilling unit in each 24-hour period;

(b) Where a discontinuous or batch still, such as a gin still, is operated, samples, not exceeding three pints in the aggregate, of the product of each batch distilled;

(c) Where the distiller desires to obtain spot-samples from various plates of a still in the course of distilling a day's production, samples, not exceeding one quart in the aggregate, from each of the various plates;

(d) Where special conditions prevail, such as the necessity for determining the efficiency of a new still, or for other valid reasons, which require additional samples of unfinished spirits for analytical purposes during specified periods, the application required by § 183.467 shall be submitted by the storekeeper-gauger to the district supervisor for his approval prior to the withdrawal of the additional samples. The size of such samples shall not exceed one quart, and the number of samples must be restricted to the minimum necessary for analytical purposes;

(e) Where the distiller desires samples in excess of those provided for in (a), (b), (c), and (d), he may remove such samples: *Provided, That, if in containers of less than one proof gallon, such removal shall be subject to payment of tax in accordance with the provisions of §§ 183.472-183.473, and, if in containers of one proof gallon or more, such removal shall be made pursuant to tax payment*

in accordance with the provisions of §§ 183.541-183.544. The size and number of samples taken must be restricted to the minimum necessary for the purposes for which intended. In authorizing the taking of samples, the storekeeper-gauger will exercise discretion with the view of allowing sufficient samples to enable the distiller to determine the quality of the product.

§ 183.466 *Finished spirits.* The distiller may take from the cistern room of the distillery samples of distilled spirits for laboratory analysis. Such samples shall not exceed one quart, in the aggregate, in each 24-hour period from any tank in the cistern room: *Provided, That, when a tank is filled and emptied and filled again in the same 24-hour period, samples, not to exceed one quart in the aggregate, may be taken from each filling of the tank.* Such samples may be withdrawn upon approval by the storekeeper-gauger in charge at the distillery of an application filed in accordance with the provisions of § 183.467. The taking of samples from the cistern room at more frequent intervals or in greater quantities shall not be authorized: *Provided, That, where the distiller desires samples in number or quantities in excess of these limitations, he may remove samples in containers of less than one proof gallon subject to payment of tax in accordance with the provisions of §§ 183.472-183.473, and in containers of one proof gallon or more upon taxpayment in accordance with the provisions of §§ 183.541-183.544.*

§ 183.467 *Application.* When the distiller desires to remove samples of unfinished spirits or finished spirits for laboratory analysis under the provisions of §§ 183.465 and 183.466, respectively, he shall make application, in triplicate, to the storekeeper-gauger in charge at the distillery. The application shall be given a serial number beginning with "1" for the first application and running consecutively thereafter. The application should specify the reasons why the samples are desired, the number and size of the samples to be taken, and the place or places of removal. Where it is desired to remove samples regularly for the purpose specified, except samples subject to taxpayment, the application may be made for that purpose. Where samples subject to taxpayment are desired, application shall be submitted each day such samples are to be procured. No sample may be taken until the application is approved.

§ 183.468 *Approval of application.* The storekeeper-gauger must satisfy himself as to the need for the number of samples desired and the legitimacy of the purpose for which they are to be used before approving the application. The storekeeper-gauger, upon approval or disapproval of the application, shall return one copy to the distiller, forward one copy to the district supervisor, and retain the original copy in his office.

§ 183.469 *Removal under supervision.* All samples of finished and unfinished spirits must be taken under the immediate supervision of the storekeeper-gauger.

§ 183.470 *Label.* At the time of the withdrawal of a sample, the proprietor shall prepare a label and a copy thereof. The label and copy shall be prepared on paper having approximate dimensions of 3" x 5". The proprietor shall show on the label and on the copy, in the order listed and upon separate lines, the following information:

(a) The word "Sample";
(b) The serial number of the approved application covering the withdrawal of the sample;

(c) The kind of spirits;
(d) The place from which the sample was removed;

(e) The name of the distiller followed by the registered number of the distillery and the name of the State in which located;

(f) The size of the samples and, in regard to samples in containers of less than one proof gallon taken subject to payment of tax, the quantity in proof gallons extended to the fourth decimal place (the proof gallon content of other samples need not be shown on the label);

(g) If the sample is to be analyzed at other than the immediate or contiguous premises of the proprietor, the name and address of the laboratory or purchaser to which the sample is to be sent.

Upon completion, the label and the copy shall be presented to the storekeeper-gauger, who shall verify the accuracy of the data thereon, date and sign both copies, and supervise the affixing of the label to the sample container. Where the label is to be placed upon a container of a sample taken subject to payment of the tax pursuant to the provisions of §§ 183.472-183.473, the storekeeper-gauger shall write upon the label and the copy the words "subject to tax payment." The copy of the label shall be filed by the storekeeper-gauger in accordance with the provisions of § 183.471. The distiller shall not be required to affix red strip stamps to containers of taxable samples of spirits. Containers of samples of spirits in quantities of one proof gallon or more taken subject to payment of tax, shall be marked, branded, and stamped, in accordance with the provisions of §§ 183.523-183.545: *Provided, That where it is impracticable to so mark and brand a sample container, the mandatory marks and brands may be shown on an additional label affixed to the container.*

§ 183.471 *Office record.* The proprietor shall furnish sufficient file cases for the filing and retention of sample records. The copies of labels shall be kept by the storekeeper-gauger as a record of samples removed and shall be filed numerically by application number and chronologically by date. If the distiller operates an internal revenue bonded warehouse on or contiguous to the distillery premises, the record of samples removed from the distillery shall be maintained separately from the record of samples removed from the warehouse.

§ 183.472 *Report of taxable samples.* Taxable samples shall be reported by the distiller on Form 1598 in accordance with the instructions on the form.

§ 183.473 *Report of taxable samples, containers of less than one gallon.* Each

day that samples in containers of less than one proof gallon are withdrawn subject to payment of tax, the storekeeper-gauger shall enter on Form 1615, in quadruplicate, a record of the taxable samples removed. All the information called for by the form shall be furnished. At the end of each month, the storekeeper-gauger shall complete the report, retain one copy of the form and deliver the remaining three copies to the distiller, who shall forward the three copies to the collector with remittance for the tax due. The collector shall execute his certificate of tax payment on each copy of the form, retain one copy, and return the remaining two copies to the distiller, who shall retain one copy and deliver the other copy to the storekeeper-gauger. The storekeeper-gauger shall note the taxpayment on his retained copy and forward the other copy to the district supervisor.

§ 183.474 *Disposition of samples.* The samples must be used solely for laboratory analysis. They may not be furnished to salesmen and dealers for advertising or soliciting purposes. Where spirits are sold subject to approval as to quality, a sample taken pursuant to the provisions of §§ 183.466-183.468 may be furnished the purchaser. Remnants or residues of samples taken from the distillery or cistern room not subject to taxpayment remaining after analysis or examination and which are not desired to be retained as laboratory specimens or for further analysis or examination should be returned to vessels in the distilling system, unless the condition of the remnants or residues is such as to render them unsuitable for such disposition. If such remnants or residues of samples are unsuitable for return to the distilling system, they should be destroyed.

SUBPART W—TAX-PAYMENT, REMOVAL, AND TRANSFER OF DISTILLED SPIRITS FROM CISTERN ROOM

AUTHORIZED REMOVALS OF WHISKY

§ 183.480 *Transfers to internal revenue bonded warehouses.* Whisky may be removed to internal revenue bonded warehouses as follows:

(a) In approved containers, for deposit in any internal revenue bonded warehouse for storage in such approved containers; and

(b) In wooden packages, each containing two or more metallic cans having a capacity of not less than 5 wine gallons each, for the purpose of exportation only. (53 Stat. 333, 335, as amended; 26 U. S. C. 2878, 2883)

§ 183.481 *Tax-payment.* Whisky produced at 160 degrees of proof or more, may be removed upon tax-payment for use for beverage purposes only, as follows:

(a) By pipeline to a contiguous tax-paid bottling house or rectifying plant; and

(b) In approved containers, including tank cars, and tank trucks, to any tax-paid bottling house or rectifying plant.

(53 Stat. 333, 335, as amended; 26 U. S. C. 2878, 2883)

§ 183.482 *Redistillation.* Whisky may be removed for redistillation, upon the

showing of the need therefor, in accordance with § 183.435. Such whisky may be removed as follows:

(a) By pipeline to a contiguous registered distillery; and

(b) In approved containers, including tank cars, to any registered distillery.

(53 Stat. 333, 335, as amended; 26 U. S. C. 2878, 2883)

AUTHORIZED REMOVALS OF BRANDY

§ 183.483 *Transfers to internal revenue bonded warehouses.* Brandy may be removed to internal revenue bonded warehouses as follows:

(a) At any proof:

(1) In approved containers for deposit in any internal revenue bonded warehouse for storage in such approved containers; and

(2) In wooden packages, each containing two or more metallic cans having a capacity of not less than 5 wine gallons each, for the purpose of exportation only.

(b) If produced at 160 degrees of proof or more and without or after reduction to not less than 160 degrees of proof:

(1) By pipeline direct to tanks in an internal revenue bonded warehouse located on the distillery premises or contiguous thereto;

(2) In tank cars, for deposit in any internal revenue bonded warehouse for storage in such containers; and

(3) In tank cars in bond to any internal revenue bonded warehouse for deposit in tanks therein.

(c) If produced at 160 degrees of proof or more and reduced to less than 160 degrees of proof:

(1) In tank cars for deposit in any internal revenue bonded warehouse for storage in such containers.

(53 Stat. 333, 335, as amended; 26 U. S. C. 2878, 2883)

§ 183.484 *Tax-payment.* Brandy produced at 160 degrees of proof or more and without or after reduction to any proof may be removed, upon tax-payment, for use for beverage purposes only, as follows:

(a) By pipe line to a contiguous tax-paid bottling house or rectifying plant; and

(b) In approved containers, including tank cars and tank trucks, to any tax-paid bottling house or rectifying plant.

(53 Stat. 335, as amended; 26 U. S. C. 2883)

§ 183.485 *Exports.* Brandy of a proof of not less than 180 degrees may be removed in tank cars, free of tax, for exportation. Brandy of any proof may be removed to an internal revenue bonded warehouse in wooden packages, each containing two or more metallic cans having a capacity of not less than 5 wine gallons each, for exportation only.

(53 Stat. 333, 339; 26 U. S. C. 2878, 2889)

§ 183.486 *Redistillation.* Brandy of any proof may be removed for redistillation upon the showing of the need therefor in accordance with § 183.435. Such brandy may be removed as follows:

(a) By pipeline to a contiguous registered distillery or registered fruit distillery; and

(b) In approved containers, including tank cars, to any registered distillery or registered fruit distillery.

(53 Stat. 335, as amended; 26 U. S. C. 2883)

AUTHORIZED REMOVALS OF RUM

§ 183.487 *Transfers to internal revenue bonded warehouses.* Rum may be removed to internal revenue bonded warehouses as follows:

(a) At any proof:

(1) In approved containers, for deposit in any internal revenue bonded warehouse for storage in such approved containers; and

(2) In wooden packages, each containing two or more metallic cans having a capacity of not less than 5 wine gallons each, for the purpose of exportation.

(b) If produced for denaturation at 150 degrees of proof or more, and without or after reduction to not less than 150 degrees of proof:

(1) By pipeline direct to tanks in an internal revenue bonded warehouse located on the distillery premises where produced.

(c) If produced at 160 degrees of proof or more and without or after reduction to not less than 160 degrees of proof:

(1) By pipeline direct to tanks in an internal revenue bonded warehouse located on the distillery premises where produced or contiguous thereto;

(2) In tank cars, for deposit in any internal revenue bonded warehouse for storage in such approved containers; and

(3) In tank cars in bond to any internal revenue bonded warehouse for deposit in tanks therein.

(d) If produced at 160 degrees of proof or more and reduced to less than 160 degrees of proof:

(1) In tank cars for deposit in any internal revenue bonded warehouse for storage in such containers.

(53 Stat. 333, 335, as amended, 355; 26 U. S. C. 2878, 2883, 3070)

§ 183.488 *Transfers to distillery denaturing bonded warehouses.* Rum produced at 150 degrees of proof or more, and without or after reduction to not less than 150 degrees of proof, may be removed by pipeline for denaturation direct to a distillery denaturing bonded warehouse located on the premises of the distillery where produced.

(53 Stat. 335, as amended, 355; 26 U. S. C. 2883, 3070)

§ 183.489 *Tax-payment.* Rum produced at 160 degrees of proof or more, and without or after reduction to any proof may be removed, upon tax-payment, for use for beverage purposes only, as follows:

(a) By pipeline to a contiguous tax-paid bottling house or rectifying plant; and

(b) In approved containers, including tank cars and tank trucks, to any tax-paid bottling house or rectifying plant.

(53 Stat. 335, as amended; 26 U. S. C. 2883)

§ 183.490 *Exports.* Rum of a proof of not less than 180 degrees may be removed in tank cars, free of tax, for exportation. Rum of any proof may be removed to an internal revenue bonded warehouse in wooden packages, each containing

two or more metallic cans having a capacity of not less than 5 wine gallons each, for exportation only.

(53 Stat. 333, 339; 26 U. S. C. 2878, 2888)

§ 183.491 *Redistillation.* Rum of any proof may be removed for redistillation upon the showing of the need therefor in accordance with § 183.435. Such rum may be removed, as follows:

- (a) By pipeline to a contiguous registered distillery; and
- (b) In approved containers, including tank cars, to any registered distillery.

(53 Stat. 335, as amended; 26 U. S. C. 2883)

AUTHORIZED REMOVALS OF GIN

§ 183.492 *Transfers to internal revenue bonded warehouses.* Gin may be removed to internal revenue bonded warehouses as follows:

- (a) At any proof:
 - (1) By pipe line direct to tanks in an internal revenue bonded warehouse located on the distillery premises or contiguous thereto;

- (2) In approved containers for deposit in any internal revenue bonded warehouse for storage in such approved containers; and

- (3) In wooden packages, each containing two or more metallic cans having a capacity of not less than 5 wine gallons each, for the purpose of exportation only.

- (b) If produced at 160 degrees of proof or more and without or after reduction to not less than 160 degrees of proof:

- (1) In tank cars for deposit in any internal revenue bonded warehouse for storage in such containers; and

- (2) In tank cars in bond to any internal revenue bonded warehouse for deposit in tanks therein.

- (c) If produced at 160 degrees of proof or more and reduced to less than 160 degrees of proof:

- (1) In tank cars for deposit in any internal revenue bonded warehouse for storage in such containers.

(53 Stat. 333, 339; 26 U. S. C. 2878, 2888)

§ 183.493 *Tax-payment.* Gin may be removed, upon tax-payment, as follows:

- (a) If produced at less than 160 degrees of proof and without or after reduction to any proof:

- (1) By pipeline, to a contiguous tax-paid bottling house or rectifying plant.

- (b) If produced at 160 degrees of proof or more and without or after reduction to any proof, for beverage purposes only:

- (1) By pipeline to a contiguous tax-paid bottling house or rectifying plant; and

- (2) In approved containers, including tank cars and tank trucks, to any tax-paid bottling house or rectifying plant.

(53 Stat. 298, as amended, 335, as amended; 26 U. S. C. 2800, 2883)

§ 183.494 *Exports.* Gin of a proof of not less than 180 degrees may be removed in tank cars, free of tax, for exportation. Gin of any proof may be removed to an internal revenue bonded warehouse in wooden packages, each containing two or more metallic cans having a capacity

of not less than 5 wine gallons each, for exportation only.

(53 Stat. 333, 339; 26 U. S. C. 2878, 2888)

§ 183.495 *Redistillation.* Gin of any proof may be removed for redistillation, upon the showing of the need therefor in accordance with § 183.435. Such gin may be removed as follows:

- (a) By pipeline to a contiguous registered distillery; and

- (b) In approved containers, including tank cars, to any registered distillery.

(53 Stat. 335, as amended; 26 U. S. C. 2883)

AUTHORIZED REMOVALS OF NEUTRAL SPIRITS

§ 183.496 *Transfers to internal revenue bonded warehouses.* Neutral spirits may be removed to internal revenue bonded warehouses as follows:

- (a) Without reduction or if not reduced below 160 degrees of proof:

- (1) By pipeline direct to tanks in an internal revenue bonded warehouse located on the distillery premises or contiguous thereto; and

- (2) In tank cars in bond to any internal revenue bonded warehouse for deposit in tanks therein.

- (b) Without or after reduction to any proof:

- (1) Into approved containers, including tank cars, for transfer in bond to any internal revenue bonded warehouse for storage in such approved containers.

- (2) In wooden packages, each containing two or more metallic cans having a capacity of not less than 5 wine gallons each, for the purpose of exportation.

(53 Stat. 333, 335, as amended; 26 U. S. C. 2878, 2883)

§ 183.497 *Tax-payment.* Neutral spirits may be removed upon tax-payment, without or after reduction to any proof, for use for beverage purposes only, as follows:

- (a) By pipeline to a contiguous tax-paid bottling house or rectifying plant; and

- (b) In approved containers, including tank cars, to any tax-paid bottling house or rectifying plant.

(53 Stat. 298, as amended, 335, as amended; 26 U. S. C. 2800, 2883)

§ 183.498 *Exports.* Neutral spirits of a proof of not less than 180 degrees may be removed in tank cars free of tax for exportation. Neutral spirits of any proof may be removed to an internal revenue bonded warehouse in wooden packages, each containing two or more metallic cans having a capacity of not less than five wine gallons each for exportation only.

(53 Stat. 333, 339; 26 U. S. C. 2878, 2888)

§ 183.499 *Redistillation.* Neutral spirits of any proof may be removed for redistillation, upon the showing of the need therefor in accordance with § 183.435. Such neutral spirits may be removed as follows:

- (a) By pipeline to a contiguous registered distillery; and

- (b) In approved containers, including tank cars, to any registered distillery.

(53 Stat. 335, as amended; 26 U. S. C. 2883)

AUTHORIZED REMOVALS OF SPIRITS-GRAIN, SPIRITS-CANE, SPIRITS-FRUIT, ETC.

§ 183.500 *Transfers to internal revenue bonded warehouses.* Spirits-grain, spirits-cane, spirits-fruit, etc., may be removed to internal revenue bonded warehouses as follows:

- (a) At any proof:

- (1) In approved containers for deposit in any internal revenue bonded warehouse for storage in such approved containers; and

- (2) In wooden packages, each containing two or more metallic cans having a capacity of not less than 5 wine gallons each, for the purpose of exportation only.

- (b) If produced at 160 degrees of proof or more and without or after reduction to not less than 160 degrees of proof:

- (1) By pipeline direct to tanks in an internal revenue bonded warehouse located on the distillery premises where produced or contiguous thereto; and

- (2) In tank cars, for deposit in any internal revenue bonded warehouse for storage in such containers; and

- (3) In tank cars in bond to any internal revenue bonded warehouse for deposits in tanks therein.

- (c) If produced at 160 degrees of proof or more and reduced to less than 160 degrees of proof:

- (1) In tank cars for deposit in any internal revenue bonded warehouse for storage in such containers.

(53 Stat. 333, 335, as amended; 26 U. S. C. 2878, 2883)

§ 183.501 *Tax-payment.* Spirits-grain, spirits-cane, spirits-fruit, etc., produced at 160 degrees of proof or more, without or after reduction to any proof, may be removed upon tax-payment for use for beverage purposes only, as follows:

- (a) By pipeline to a contiguous tax-paid bottling house or rectifying plant; and

- (b) In approved containers, including tank cars and tank trucks, to any tax-paid bottling house or rectifying plant.

(53 Stat. 298, as amended; 335, as amended; 26 U. S. C. 2800, 2883)

§ 183.502 *Exports.* Spirits-grain, spirits-cane, spirits-fruit, etc., of a proof of not less than 180 degrees may be removed in tank cars, free of tax, for exportation. Spirits-grain, spirits-cane, spirits-fruit, etc., of any proof may be removed to an internal revenue bonded warehouse in wooden packages, each containing two or more metallic cans having a capacity of not less than 5 wine gallons each, for exportation only.

(53 Stat. 333, 339; 26 U. S. C. 2878, 2888)

§ 183.503 *Redistillation.* Spirits-grain, spirits-cane, spirits-fruit, etc., of any proof may be removed for redistillation, upon the showing of the need therefor in accordance with § 183.435. Such spirits may be removed as follows:

- (a) By pipeline to a contiguous registered distillery; and

- (b) In approved containers, including tank cars, to any registered distillery.

(53 Stat. 335, as amended; 26 U. S. C. 2883)

AUTHORIZED REMOVALS OF VODKA

§ 183.504 *Transfers to internal revenue bonded warehouses.* Vodka may be removed to internal revenue bonded warehouses as follows:

(a) In metal, porcelain, glass, or paraffin-lined containers for deposit in any internal revenue bonded warehouse for storage in such containers; and

(b) In wooden packages, each containing two or more metallic cans having a capacity of not less than 5 wine gallons each, for the purpose of exportation only.

(53 Stat. 333; 26 U. S. C. 2878)

§ 183.505 *Redistillation.* Vodka may be removed for redistillation, upon the showing of the need therefor in accordance with § 183.435. Such vodka may be removed as follows:

(a) By pipeline to a contiguous registered distillery; and

(b) In approved containers, including tank cars, to any registered distillery.

(53 Stat. 335, as amended; 26 U. S. C. 2883)

CONTAINERS

§ 183.506 *Approved containers.* "Approved containers" shall mean only those containers specified in § 183.6. Spirits may be drawn into railroad tank cars only in case the premises of the distiller and the consignee are equipped with suitable railroad siding facilities. If the spirits are to be warehoused in the tank car, the railroad siding facilities of the receiving warehouse must extend into the warehouse. Distilled spirits authorized to be removed upon taxpayment in tank trucks, pursuant to §§ 183.481 (b), 183.484 (b), 183.489 (b), 183.493 (b) (2), 183.497 (b), and 183.501 (b), shall be gauged, taxpaid, removed, shipped, etc., in accordance with the procedure prescribed by this part for the removal of taxpaid spirits in tank cars.

(53 Stat. 314, 333, 335, as amended; 26 U. S. C. 2820, 2878, 2883)

WOODEN PACKAGES CONTAINING METALLIC CANS

§ 183.507 *General.* As provided by this subpart distilled spirits may be drawn into wooden packages each containing two or more metallic cans, which cans shall each have a capacity of not less than 5 wine gallons, for entry into an internal revenue bonded warehouse for exportation therefrom.

(53 Stat. 333; 26 U. S. C. 2878)

§ 183.508 *Kind and construction of packages.* Each such package shall be substantially and securely constructed of clear, dressed lumber, and one side of each such package, to be known as the Government side, must be reserved for the marks and brands prescribed by § 183.512 and the export stamp required by Regulations 10 (26 CFR Part 185). The Government side must present a smooth and unbroken surface, and may consist of two or more pieces fitted closely together. The wooden packages shall be secured by metal straps or heavy wires, in addition to being securely nailed.

(53 Stat. 333; 26 U. S. C. 2878)

§ 183.509 *Notice by distiller.* Whenever distilled spirits are to be exported in wooden packages, each containing two or more metallic cans, the distiller shall file with the storekeeper-gauger a written notice, stating the number of cans which he desires to have filled for this purpose.

(53 Stat. 333; 26 U. S. C. 2878)

§ 183.510 *Packages to be weighed before filling.* The empty packages shall be weighed immediately preceding the filling of same. In determining the weight (tare) of the package, the metallic cans contained therein as well as the wooden case shall be weighed. The combined weight of the metallic cans and the case shall be the tare or weight to be marked on the empty package.

(53 Stat. 333; 26 U. S. C. 2878)

§ 183.511 *Filling of cans.* Upon receipt of the notice from the distiller pursuant to § 183.509, the storekeeper-gauger will supervise the filling of the metallic cans from the receiving cistern. After the packages have been filled they will be reweighed and the details of the gauge reported on Form 1520.

(53 Stat. 333; 26 U. S. C. 2878)

§ 183.512 *Marks and brands.* The name of the distiller or the person in whose name the spirits were produced, the registry number of the distillery, the city, town and state in which the distillery is located, the kind of spirits, the serial number of the package, the date of filling, and the proof, proof gallons and tare determined at the time of filling, will be plainly and durably stenciled on the Government side of the package in letters and figures of not less than one-half inch in height. In addition, when the spirits are to be withdrawn for transfer in bond to an internal revenue bonded warehouse located on noncontiguous premises, there shall be marked on the Government side of the package data showing the transfer date and premises to which transferred as "Trans. Aug. 1, 1950 IRBW 4 N. Y." The marks will be shown in the following manner:

Serial No. 999
JOHN DOE DISTILLING CO.
No. 9, Rockland, Pa.
Filled Aug. 1, 1950
Whisky
T.—
P.—
P. G.—
(Trans. Aug. 1, 1950,
IRBW 4—N. Y.)

(53 Stat. 333; 26 U. S. C. 2878)

§ 183.513 *Deposit in warehouse.* After the packages have been filled, gauged, and marked as required by this subpart and recorded as required by § 183.586 they will be deposited in an internal revenue bonded warehouse for temporary storage pending their removal for exportation.

(53 Stat. 333; 26 U. S. C. 2878)

DRAWING OFF, GAUGING AND REMOVAL OF SPIRITS

§ 183.514 *Drawing off spirits.* Distilled spirits must be drawn from the receiving cisterns on or before the third day following deposit therein. When

spirits are to be drawn from a receiving cistern, the storekeeper-gauger will see that the valve in the pipe line controlling the flow of spirits into the cistern and the valve in any connecting overflow pipe line are closed and locked before the spirits in the cistern are reduced and proofed, and that such valves remain closed and locked until all spirits have been drawn from the cistern. Whenever spirits are to be drawn from receiving cisterns or transferred into or out of other tanks secured with Government locks, the storekeeper-gauger will open and close the locks, but it shall be the duty of the distiller to manipulate the stop-cocks or valves controlling the flow of the spirits. The storekeeper-gauger assigned to the cistern room is required to be present and personally supervise all operations therein, and to see that all such operations are properly performed in accordance with this part.

(53 Stat. 314; 26 U. S. C. 2820)

§ 183.515 *Gauging of spirits.* All distilled spirits drawn from receiving cisterns will be carefully gauged by the storekeeper-gauger by weighing and proofing the spirits in accordance with this subpart and the Gauging Manual (26 CFR Part 186), and the details thereof entered on the report of gauge Form 1520. Entries shall be made as indicated by the headings of the various columns and lines and in accordance with the instructions printed on the form or issued in respect thereto and as required by this part. The storekeeper-gauger shall, in every instance, note on Form 1520 the proof of distillation of the spirits gauged. The proof of spirits shall be adjusted to a whole or complete degree before being removed from the receiving cisterns: *Provided*, That the proof of rum transferred by pipe line from the receiving cisterns to the distillery denaturing bonded warehouse on the distillery premises need not be so adjusted. The spirits in the cistern must be thoroughly agitated before taking the proof. The proof so ascertained will be regarded as the proof of spirits run into all packages filled from the cistern and all spirits removed by pipe line or in tank cars. However, the proof of the spirits in the cistern will be checked several times while spirits are being drawn off. Distilled spirits to be transferred by pipe line or in railroad tank cars for shipment will be gauged in a weighing tank as provided in §§ 183.517, 183.520, and 183.555.

(53 Stat. 298, as amended, 307, 333, 335, as amended, 355, 492; 26 U. S. C. 2800, 2808, 2878, 2883, 3070, 4017)

§ 183.516 *Time of removal from cistern room.* The spirits must be removed from the cistern room on the same day they are drawn from the receiving cisterns, except that where they are drawn into approved containers for tax-payment without being entered into a warehouse, or are drawn into such containers for deposit in an internal revenue bonded warehouse off the distillery premises, the same may be placed in a temporary storage room within the cistern room, provided in accordance with § 183.66, and permitted to remain therein for such period as may be reasonably necessary to

accomplish tax-payment or removal for such deposit, but not more than three days, except in cases of emergency, and then only with the approval of the district supervisor. While spirits are stored in such temporary storage room it will be kept securely locked at all times, except when necessary to be open for the deposit or removal of spirits. The entrance door will be secured with a Government seal lock, the key to which will remain at all times in the custody of the storekeeper-gauger.

(53 Stat. 314; 26 U. S. C. 2820)

§ 183.517 *Weighing spirits removed by pipe line.* Spirits removed by pipe line must be weighed in weighing tanks before removal, except that where they are transferred by pipe line from the receiving cisterns to an internal revenue bonded warehouse or denaturing bonded warehouse on the distillery premises, or to an internal revenue bonded warehouse operated by the distiller on contiguous premises, or to a contiguous distillery for redistillation, the spirits may be run into weighing tanks in the bonded warehouse or the receiving distillery and weighed therein. The spirits must, in any event, be weighed once in connection with their removal. Spirits transferred from the cistern room to tank cars must be gauged in weighing tanks prior to such transfer. The storekeeper-gauger will balance the weighing tank scales before the spirits are run into the weighing tank. The details of the gauge will be reported by the storekeeper-gauger in each instance in accordance with this subpart.

(53 Stat. 298, as amended, 335, as amended, 355, 492; 26 U. S. C. 2800, 2883, 3070, 4017)

§ 183.518 *Testing tank scales.* Scales used for weighing spirits in lots of not over 500 gallons will be tested from time to time under the supervision of the storekeeper-gauger by means of test weights provided in accordance with § 183.94. Such scales will be tested by placing the prescribed test weights on the scales and checking the weight registered on the beam of the scales. The test weights will then be removed without disturbing the beam and the weighing tank filled with spirits of water to the same weight, whereupon the test weights will again be placed upon the scales, the spirits or water being retained in the tank and the weight registered on the beam checked. This operation will then be continued until the scales have been checked in 500-pound notches at all weights for which the scales are used. Proprietors will have scales used for weighing spirits in larger lots tested and their accuracy certified by State, county, or city departments of weights and measures or by a responsible scale company at intervals of not more than six months. Officers will see that the proprietors have the scales of weighing tanks, used for weighing distilled spirits in lots of more than 500 gallons, tested and their accuracy certified by State, county, or city departments of weights and measures, or by a responsible scale company, at intervals of not more than six months. Officers will also check, at least once a month, the gallonage repre-

sented to be on the scale against the gallonage indicated by a volumetric determination of the contents of the tank. Such volumetric determination will be made by (a) accurately ascertaining the proof and the temperature of the distilled spirits and the depth of the liquid in the tank by means of a steel tape, (b) multiplying the depth in inches by the capacity of the tank for 1 inch of depth, and (c) correcting the volume to 60 degrees Fahrenheit in accordance with table No. 7 of the Gauging Manual. The corrected gallons thus determined will be compared with the gallons represented by the reading of the beam of the scale. Unless the volumetric check is within 0.5 percent of the quantity shown to be in the tank, the Government officer will take appropriate steps to have the accuracy of the scales verified. In addition to the volumetric check described, officers will, as frequently as conditions indicate the necessity therefor, test weighing tank scales of large capacity in the manner prescribed for smaller capacity weighing tank scales, except that such tests on large capacity weighing tank scales may be made when they contain considerable quantities of liquid. In this case the beam will be carefully balanced, and test weights will be added to the load, one at a time, until the range of 500 pounds is checked. At any time an officer finds a scale to be inaccurate, he will require the proprietor to have such scale adjusted and its accuracy certified.

(53 Stat. 307; 26 U. S. C. 2808)

§ 183.519 *Use of tank scales.* When spirits are to be gauged in a weighing tank, the storekeeper-gauger will balance the scales on which the weighing tank is mounted before the spirits are run into such tank for gauging. The storekeeper-gauger will not permit the use of any scales not tested as required by § 183.518 or which upon testing are found to be inaccurate.

(53 Stat. 307, 335, as amended; 26 U. S. C. 2808, 2883)

§ 183.520 *Pipe line removals.* Pipe lines used for the transfer of spirits from the cistern room must conform to the requirements of §§ 183.111-183.112, except that spirits may be transferred into a tank car by means of a hose connection. The valves on such pipe lines shall be kept closed and locked at all times, except when necessary to be open for the transfer of spirits. The keys to all locks on the valves of pipe lines shall remain at all times in the custody of the storekeeper-gauger. Spirits may be transferred by pipe line or hose only under the immediate supervision of the storekeeper-gauger.

(53 Stat. 298, as amended, 335, as amended, 355; 26 U. S. C. 2800, 2883, 3070)

ADDITION OF OAK CHIPS TO PACKAGES OF SPIRITS

§ 183.521 *Time of addition.* Distillers may add oak chips which have not been treated with any chemical to packages of distilled spirits. Except as provided in § 183.522, the oak chips must be put into the package before the package is filled. When the chips are so added, the tare of the package will be determined after

the addition of the chips, and the storekeeper-gauger will make a notation on the entry Form 1520 to the effect that chips were added to the package and included in the tare.

§ 183.522 *Addition to packages in warehouse.* Oak chips which have not been treated with any chemical may, as provided by Regulations 10 (26 CFR Part 185), be added to packages of distilled spirits in warehouses only where the spirits are shown to be unmerchable by reason of being deficient in color.

MARKING, BRANDING AND STAMPING OF PACKAGES

§ 183.523 *General.* Before weighing empty casks or packages, officers will examine them and will not permit the use of any cask or package which contains or has on its interior or exterior, any substance that will prevent the correct ascertainment of tare. The tare of the empty package will be determined immediately preceding the filling of the same in all cases: *Provided however,* The tare of a number of packages may be ascertained and marked thereon before any are filled but not exceeding the number which are to be filled the same day or the following day. If the barrels are not to be filled until the following day, they must be locked in the cistern room after being weighed and marked. The tare or weight of the empty package will be marked on the package as soon as ascertained. All packages of spirits, when filled, shall be further marked and branded as provided by this Subpart, and where such packages are taxpaid, the taxpaid stamps will be affixed thereto and canceled in the manner prescribed in § 183.545.

(53 Stat. 307, 333, 335, as amended; 26 U. S. C. 2808, 2878, 2883)

§ 183.524 *Marking of packages filled in cistern room.* All packages of distilled spirits filled in the cistern room shall be marked as follows:

(a) *Marks.* The name of the distiller or the person in whose name the spirits were produced, the registry number of the distillery, the city or town and state in which the distillery is located, the kind of cooperage, the serial number of the package, the kind of spirits, the date of filling, the proof at which distilled, the original proof gallons, the original proof and tare determined at the time of filling (and, if taxpaid in the cistern room, the date of taxpayment and serial number of the taxpaid stamp, as required by § 183.544) shall be marked upon the head of each package. In addition, when spirits are to be withdrawn for transfer in bond to an internal revenue bonded warehouse located on noncontiguous premises there shall be marked upon the head of the package data showing the transfer date and premises to which transferred, as "Trans. Aug. 1, 1950, IRBW 4-N. Y." The head of the package bearing these marks will be known as the "Government head."

(b) *Abbreviation of marks.* The registry number and state may be combined and abbreviated as "Calif-708." The kind of cooperage may be abbreviated "C" for charred, "REC" for recharred, "P" for plain, "PAR" for paraffined, "G"

for glued, and "R" for reused (not re-charred). In addition to these marks, the letters "PS" (pre-soaked) will follow the letters indicating the kind of cooperage if the barrel has been steamed or water soaked prior to filling.

(c) *Symbols for proof of distillation.* Symbols may be used to designate the proof of distillation, e. g., "D190P" for "Distilled 190 proof or over," "D160-190P" for "Distilled between 160 and 190 proof," and "D160P" for "Distilled not over 160 proof," or in the case of spirits derived from fruit, "D170-190P" for "Distilled between 170 and 190 proof" and "D170P" for "Distilled not over 170 proof."

(d) *Method of marking.* All marks shall be plainly and durably burned, cut, imprinted, or stenciled on the head of each package. All marks, except the proof, proof gallons, tare and withdrawal data, shall be placed on the package in letters and figures of not less than three-fourths inch in height. The proof, proof gallons, tare and withdrawal data, and all marks in the case of half barrels, shall be in letters and figures of not less than one-half inch in height. The ink used in applying marks and brands shall be of suitable quality to effect durability and legibility and the heads of the packages shall be sufficiently smooth and free from defects to permit the marks and brands to be clearly and distinctly applied.

(e) *Kind of spirits.* The kind of spirits shall be stated as "bourbon whisky," etc., in accordance with §§ 183.527-183.534.

(f) *Other marks.* No marks other than those required by this part shall be placed upon the Government head of a package.

(53 Stat. 333, 335, as amended; 26 U. S. C. 2878, 2883)

§ 183.525 *Marks and brands illustrated.* The following cut illustrates the order and manner in which the marks shall be applied to the head of each package upon filling and upon tax-payment. When spirits are transferred in bond or withdrawn free of tax, the required withdrawal information will be shown in lieu of the tax-payment data shown in the cut:



§ 183.526 *Numbering of packages.* Packages filled with distilled spirits at the distillery shall be serially numbered,

beginning with number 1 for the first package filled and continuing in regular sequence: *Provided*, That the series in current use at existing distilleries will be continued. Where there is a change in the trade name or style, or in the proprietorship of the business, the series in use at the time of such change will be continued. A new series will be used where there is a change in the type of plant; but use of the prior series will be resumed when the plant is again operated as a registered distillery. When the serial numbers of packages filled at any distillery have reached the number 1,000,000, the distiller may, if he so desires, begin a new series, commencing with number 1 preceded or followed by a letter to distinguish it from the prior series, as 1A, 2A, etc., and when the number 1,000,000, so distinguished, is again reached the distiller may begin another series distinguished by the second letter of the alphabet, as 1B, 2B, etc., and subsequent series, distinguished by other letters of the alphabet in order, may likewise be commenced.

(53 Stat. 307, 333, 335, as amended; 26 U. S. C. 2808, 2878, 2883)

KIND OF SPIRITS

§ 183.527 *Whisky.* Spirits distilled from a fermented mash of grain at less than 190 degrees of proof in such manner that the distillate possesses the taste, aroma, and characteristics generally attributed to whisky and withdrawn from the cistern room of the distillery at not more than 110 degrees and not less than 80 degrees of proof, shall be branded "Whisky," except as follows:

(a) *Bourbon whisky, rye whisky, etc.* Whisky distilled at not exceeding 160 degrees of proof from a fermented mash of not less than 51 percent rye grain, corn grain, wheat grain, malted barley grain, or malted rye grain, and packaged in charred new oak containers, shall be branded "Rye Whisky," "Bourbon Whisky," "Wheat Whisky," "Malt Whisky," or "Rye Malt Whisky," respectively.

(b) *Bourbon mash, rye mash, etc.* Whisky distilled at not exceeding 160 degrees of proof from a fermented mash of not less than 51 percent rye grain, corn grain (except as provided in paragraph (c) of this section), wheat grain, malted barley grain, or malted rye grain, and packaged in reused cooperage, shall be branded "Whisky." Such whisky shall be further marked, either by branding or stenciling, with the words "Distilled from Rye (or Bourbon, Wheat, Malt, or Rye Malt) Mash," as the case may be.

(c) *Corn whisky.* Whisky distilled at not exceeding 160 degrees of proof from a fermented mash of not less than 80 percent of corn grain, and packaged in uncharred oak containers, or reused charred oak containers, and not subjected, in the process of distillation or otherwise, to treatment with charred wood, shall be branded "Corn Whisky."

(d) *Sour mash whisky.* Packages containing whisky produced by a sour mash method described on the distiller's statement of process may be so marked on the Government head at the time of filling.

(e) *Treated with oak chips.* Any whisky as defined in this section, which

in whole or in part is treated with wood chips through percolation or otherwise, during distillation or storage, shall be further marked, either by branding or stenciling, with the words "Treated with oak chips."

(f) *Quick aging.* Where whisky is quick-aged, by any process, in packages at any time prior to tax-payment, the letters, "Q. A." will be burned, cut or stenciled upon the head of the package when such quick aging is completed.

(53 Stat. 333, 335, as amended; 26 U. S. C. 2878, 2883)

§ 183.528 *Brandy.* Spirits distilled solely from the fermented juice, mash, or wine of fruit, or from the residue thereof, distilled at less than 190 degrees of proof in such manner that the distillate possesses the taste, aroma, and characteristics generally attributed to brandy, shall be branded "Brandy," qualified as follows:

(a) *Brandy distilled at not exceeding 170 degrees of proof.* Brandy distilled at not exceeding 170 degrees of proof solely from the juice or mash of whole, sound, ripe fruit, or from standard grape, citrus, or other fruit wine, having a volatile acidity, calculated as acetic acid and exclusive of sulphur dioxide, not in excess of 0.20 gram per 100 cubic centimeters (20° C.), with or without the addition (to juice or wine only) of not more than 20 percent by weight of the pomace of such juice or wine, or 30 percent by volume of the lees of such wine, or both (calculated prior to the addition of water to facilitate fermentation or distillation), is classed as fruit brandy and shall be branded as follows:

(1) *Grape brandy.* Fruit brandy derived exclusively from grapes, shall be branded "Grape Brandy" or "Brandy";

(2) *Peach brandy, apple brandy, etc.* Fruit brandy, other than grape brandy, derived exclusively from one variety of fruit, shall be designated by the word "Brandy," qualified by the name of such fruit (e. g., "Peach Brandy," "Apple Brandy," "Orange Brandy"), except that apple brandy may be designated "Apple-jack."

(3) *Fruit brandy.* Fruit brandy distilled from more than one variety of fruit shall be branded "Fruit Brandy," qualified by a statement of composition (e. g., "Fruit Brandy -----% Grapes and -----% Blackberries").

(b) *Dried fruit brandy.* Brandy that conforms to the standard for fruit brandy, except that it has been derived from sound dried fruit, or from the standard wine of such fruit, shall be branded as follows:

(1) *Raisin brandy.* Brandy derived from raisins, or from raisin wine, shall be branded "Raisin Brandy."

(2) *Dried peach brandy, dried apple brandy, etc.* Other brandies derived from sound dried fruit, or from the standard wine of such fruit, shall be branded in the same manner as fruit brandy from the corresponding variety or varieties of fruit except that the name of the fruit shall be qualified by the word "Dried."

(c) *Lees brandy.* Brandy distilled from the lees of standard grape, citrus, or other fruit wine, which are run into

the still, shall be branded "Lees Brandy," qualified by the name of the fruit from which such wine and lees are derived (e. g., "Grape Lees Brandy").

(d) *Pomace brandy.* Brandy distilled from the skin and pulp of sound, ripe grapes, citrus, or other fruit, which are run into the still, after the withdrawal of the juice or wine therefrom, shall be branded "Pomace Brandy," or "Marc Brandy," qualified by the name of the fruit from which derived (e. g., "Grape Pomace Brandy"). Grape pomace brandy may be designated as "Grappa" or "Grappa Brandy."

(e) *Residue brandy.* Brandy distilled wholly or in part (except as provided in paragraph (a)) from the residue of fruit or wine shall be branded "Residue Brandy," qualified by the name of the fruit from which derived (e. g., "Grape Residue Brandy").

(1) *Optional branding.* Brandy distilled wholly or in part from residue materials which conforms to any of the standards set forth in paragraphs (a), (b), (c), and (d) of this section, may, regardless of such fact, be branded "Residue Brandy," qualified by the name of the fruit from which derived; but such designation shall be conclusive, precluding any later change of designation.

(f) *Neutral brandy.* Brandy distilled at more than 170 degrees of proof and less than 190 degrees of proof, shall be branded in the same manner as if distilled at a lower proof, except that the designation shall be qualified by the word "Neutral," e. g., "Neutral Brandy," "Neutral Grape Lees Brandy," or "Neutral Grape Pomace Brandy," "Neutral Peach Brandy," "Neutral Peach Pomace Brandy," etc.

(g) *Substandard brandy.* Brandy distilled from juice, mash, or wine having a volatile acidity, calculated as acetic acid and exclusive of sulphur dioxide, in excess of 0.20 gram per 100 cubic centimeters (20° C.) (the volatile acidity shall be calculated exclusive of water added to facilitate distillation), and brandy which has been distilled from unsound, moldy, diseased, or decomposed juice, mash, wine, lees, pomace, or residue, or which shows in the finished product any taste, aroma, or characteristic associated with products distilled from such material, shall be branded "Substandard Brandy" qualified by the name of the material from which derived.

(h) *Treatment with wood chips.* Brandy as defined in this section which in whole or in part is treated with wood chips through percolation or otherwise, during distillation or storage, shall be further marked, either by branding or stenciling, with the words "Treated with oak chips."

(i) *Burnt sugar or caramel.* Where burnt sugar or caramel is added to brandy, the letters "B. S. A." will be marked on the head of the package.

(53 Stat. 333, 335, as amended, 352, as amended; 26 U. S. C. 2878, 2883, 3036)

§ 183.529 *Rum.* Spirits distilled from the fermented juice of sugarcane, sugarcane syrup, sugarcane molasses, or other sugarcane products, at less than 190 degrees of proof in such manner that the spirits possess the taste, aroma, and

characteristics generally attributed to rum, shall be branded "Rum."

(53 Stat. 333, 335, as amended; 26 U. S. C. 2878, 2883)

§ 183.530 *Gin.* Spirits obtained by original distillation over or with juniper berries and other aromatics customarily used in the production of gin, and deriving their main characteristic flavor from juniper berries, shall be branded "Gin," and shall be marked to show the material from which produced, as "Distilled from grain," or "Distilled from cane products," or "Distilled from fruit."

(53 Stat. 333, 335, as amended; 26 U. S. C. 2878, 2883)

§ 183.531 *Neutral spirits.* All spirits distilled at or above 190 degrees of proof shall be branded "Neutral Spirits" followed by a word or phrase descriptive of the material from which distilled. Such branding shall be in the following form: "Neutral Spirits—Grain," "Neutral Spirits—Cane," or "Neutral Spirits—Fruit," etc. In the case of fruit neutral spirits produced for fortification, the words "Neutral Spirits—Fruit" branded on the package shall be followed by the name of the fruit from which produced. Such branding shall be in the following form: "Neutral Spirits—Fruit—Grape," etc.

(53 Stat. 333, 335, as amended; 26 U. S. C. 2878, 2883)

§ 183.532 *"Spirits—Grain," "Spirits—Cane," "Spirits—Fruit," Etc.* Spirits distilled at less than 190 degrees of proof which are not to be branded in accordance with §§ 183.527–183.533 shall be branded "Spirits" followed by the word or phrase descriptive of the material from which distilled. Such branding shall be in the following form: "Spirits—Grain," "Spirits—Cane," "Spirits—Fruit," "Spirits—Vegetable," etc.

(53 Stat. 333, 335, as amended; 26 U. S. C. 2878, 2883)

§ 183.533 *Vodka.* Neutral spirits which are reduced to not more than 110 degrees of proof and not less than 80 degrees of proof and, after such reduction in proof, are so treated by one of the following methods as to be without distinctive character, aroma, or taste, shall be branded "Vodka":

(a) By causing the distillate to flow continuously through a tank or a series of tanks containing at least 1½ pounds of charcoal for each gallon of distillate contained therein at any one time so that the distillate is in intimate contact with the charcoal for a period of not less than 8 hours, not less than 10 percent of the charcoal being replaced by new charcoal at the expiration of each 40 hours of operation, at a rate which will replace at least 6 pounds of charcoal for every 100 gallons of spirits treated;

(b) By keeping the distillate in constant movement by mechanical means in contact for not less than 8 hours with at least 6 pounds of new charcoal for every 100 gallons of distillate;

(c) By purifying or refining the distillate by any other method which the Deputy Commissioner finds will result in a product equally without distinctive

character, aroma, or taste, and which has been approved by him.

Vodka may be withdrawn from the distillery and stored only in metal, porcelain, or glass containers or paraffin-lined containers, including tank cars.

(53 Stat. 333; 26 U. S. C. 2878)

§ 183.534 *Other spirits.* If a distiller proposes to produce spirits not included in any of the classes enumerated in this subpart, he must first apply to the Deputy Commissioner for a designation for such spirits and they will be branded accordingly. They will be removed in accordance with §§ 183.500–183.503 unless otherwise directed by the Deputy Commissioner.

(53 Stat. 333, 335, as amended; 26 U. S. C. 2878, 2883)

ADDITIONAL REQUIREMENTS RELATING TO MARKING

§ 183.535 *Distiller to mark and brand packages.* The prescribed marks and brands peculiar to individual packages shall be placed upon the package by the distiller, under the supervision of the storekeeper-gauger.

(53 Stat. 333; 26 U. S. C. 2878)

§ 183.536 *Mechanical labor and materials.* All mechanical labor pertaining to the gauging of packages of spirits at distillery cistern rooms shall be performed by the distiller. All materials and facilities required in connection with the application of marks and stamps shall be furnished by the distiller, except the instruments for proofing the spirits.

(53 Stat. 333, 336; 26 U. S. C. 2878, 2884)

§ 183.537 *Testing of scales.* The storekeeper-gauger shall balance the scales before weighing either empty or filled packages, and will frequently test, by means of test weights provided in accordance with § 183.94, the accuracy of such scales. During the process of weighing he shall personally verify the weight of each package and record it in the proper column of Form 1520. The storekeeper-gauger will not permit the use of any scales which upon testing are found to be inaccurate.

(53 Stat. 307; 26 U. S. C. 2808)

§ 183.538 *Proofing of spirits.* The storekeeper-gauger shall personally take the proof of all spirits gauged and enter the same on Form 1520. The storekeeper-gauger will follow strictly the instructions set forth in the Gauging Manual (26 CFR Part 186) respecting the proofing of spirits, in order that the proof may be accurately determined. Hydrometers for determining the proof of distilled spirits are supplied by the Government for use of storekeeper-gaugers. The use of other than official hydrometers by storekeeper-gaugers is prohibited.

(53 Stat. 307, 333, 335, as amended, 336; 26 U. S. C. 2808, 2878, 2883, 2884)

§ 183.539 *Verification of marks and brands.* The storekeeper-gauger shall verify the tare, proof and proof gallons marked on the packages, by comparison with his gauge report, Form 1520, and

shall satisfy himself of the accuracy and correctness of the marks and brands and stamps (if any).

§ 183.540 *Obliteration of stamps and marks and brands on empty packages.* When packages of distilled spirits are emptied, all stamps and marks and brands required to be placed thereon must be completely effaced and obliterated. Where a portion of a stamp is cut out for submission to the district supervisor, when packages are dumped for rectification or for bottling without rectification, the remnant remaining affixed to the package must be completely effaced and obliterated when the package is emptied.

(53 Stat. 330; 26 U. S. C. 2866)

TAX PAYMENT IN PACKAGES

§ 183.541 *Application, Form 179.* Whenever the distiller desires to tax-pay and remove spirits in packages direct from the cistern room as authorized by this part or when, pursuant to approved application, he desires to tax-pay and remove samples of spirits for laboratory analysis in containers of one proof gallon or more, he shall execute application therefor on Form 179, in quadruplicate, and deliver all copies to the storekeeper-gauger.

(53 Stat. 335, as amended; 26 U. S. C. 2883)

§ 183.542 *Gauge and tax payment.* The packages will be gauged and marked and branded in accordance with this part. The details of the gauge will be entered by the storekeeper-gauger on Form 1520, in quadruplicate. Three copies of Form 1520, accompanied by all copies of Form 179 with the storekeeper-gauger's report thereon duly executed, will be delivered by the storekeeper-gauger to the distiller. The distiller will then forward all copies of both forms to the collector of internal revenue with remittance in cash or by certified check or post office money order for the tax.

(53 Stat. 335, as amended, 447, as amended, 492; 26 U. S. C. 2883, 3656, 4017)

§ 183.543 *Issuance of tax-paid stamps.* The collector will issue the requisite tax-paid stamps. Each tax-paid stamp shall bear the signature of the collector, who shall write or stamp thereon the date of payment of the tax, by whom paid, the number of gallons and tenths of gallons of proof spirits, and the serial number of the cask. Facsimile signatures of collectors may be affixed by the use of hand stamps to the tax-paid stamps, care being taken to use only such ink as will neither fade nor blur. The collector will enter the serial numbers of the stamps in the appropriate spaces on all copies of Form 1520, sign the certificate of tax payment on each copy of Form 179, retain one copy of each Form 179 and Form 1520, and return the remaining three copies of Form 179 and two copies of Form 1520 to the distiller with the stamps.

(53 Stat. 298, as amended; 26 U. S. C. 2800)

§ 183.544 *Removal of spirits.* The distiller shall immediately deliver all copies of Form 179 and Form 1520, with the tax-paid stamps, to the storekeeper-

gauger, who will verify the data thereon with his retained copy of Form 1520 and, if no discrepancies are found, he will note the serial numbers of the stamps on the retained copy of Form 1520 and, after affixing his signature to the stamps, which may be by the use of a facsimile stamp, will return them to the distiller. The distiller will mark, brand and stamp the packages as provided by § 183.524. The stamp must be affixed to the Government head of the package on the left side, and except as provided herein, on the right side opposite the stamp there will be marked the serial number of the tax-paid stamp and the date of tax-payment. These withdrawal marks may be waived by the district supervisor when packages of spirits are to be removed to a tax-paid bottling house or rectifying plant in the immediate vicinity of the distillery for prompt bottling or dumping for rectification where the establishments are owned by the proprietor of such distillery or a subsidiary or affiliate. When the packages have been marked and stamped, as required, they must be promptly removed from the distillery premises. After removal of the spirits, the storekeeper-gauger will execute his statement of the date of withdrawal on the three copies of Form 179, retain one copy each of Form 179 and Form 1520, deliver one copy of each to the distiller, and forward one copy of each to the district supervisor.

(53 Stat. 333, 335, as amended; 26 U. S. C. 2878, 2883)

§ 183.545 *Affixing and canceling stamps.* The tax-paid stamps to be affixed by the proprietor as provided by § 183.544 will be securely affixed to the Government head of the package in such manner as to effectively prevent removal without mutilation. The stamp will be canceled immediately after it has been affixed to the barrel by imprinting with five parallel wavy lines across the stamp, the stencil for which will be provided by the proprietor. The stamp will be covered with a protective coating of varnish, shellac, or lacquer which is sufficiently transparent to permit legibility of the markings on the stamp, except where the packages are to be transferred to contiguous premises and the coating is not required for protecting the legibility of the stamp. Such stamps must remain upon the packages until the spirits therein are emptied or drawn off.

(53 Stat. 396; 26 U. S. C. 3301)

TAX PAYMENT FOR REMOVAL BY PIPE LINE OR IN RAILROAD TANK CARS

§ 183.546 *Application, Form 179.* Whenever the distiller desires to tax-pay and remove distilled spirits direct from the cistern room by approved pipe lines to contiguous premises, or in railroad tank cars, he shall execute application therefor on Form 179, in quadruplicate. The distiller shall state, in addition to other applicable data on the form, the approximate quantity to be withdrawn and whether such removal will be by pipe line or by tank car. All copies of Form 179 shall be delivered to the storekeeper-gauger, whereupon such spirits will be run into a weighing tank and gauged for removal. The storekeeper-gauger shall

enter the details of the gauge on Form 1520, in quintuplicate. The proof at which the spirits were distilled, and in the case of tank car shipments, the number and name or symbols of the owner of the tank car, shall be noted on Form 1520 by the storekeeper-gauger. The storekeeper-gauger will execute his report on each copy of Form 179 and will return all copies thereof, with four copies of Form 1520 attached, to the distiller, who will enter in the space provided therefor on each copy of Form 179, the description of the spirits gauged.

(53 Stat. 298, as amended, 335, as amended, 492; 26 U. S. C. 2800, 2883, 4017)

§ 183.547 *Application for certificate of tax payment, Form 1594.* The distiller will forward all copies of Form 179, and Form 1520, with Form 1594, in duplicate, if the vendee is located in the same supervisory district and in triplicate if the vendee is located in a different supervisory district, accompanied by proper remittance for the tax, to the collector of internal revenue. Form 1594 will be appropriately modified to cover the transfer by pipe line.

(53 Stat. 298, as amended, 335, as amended; 26 U. S. C. 2800, 2883)

§ 183.548 *Certificate of tax payment, Form 1595.* The collector will issue Form 1595, appropriately modified in the case of pipe line transfers, to show "For Removal by Pipe Line," note the serial number of the certificate, on all copies of Form 1520, and execute his certificate of tax payment on all copies of Form 179. The collector shall fill in all the required data in the blank spaces on the certificate, except those provided in the lower left corner for the verification of the storekeeper-gauger, and shall date and sign the certificate in the same manner as required for a tax-paid stamp by § 183.543. This certificate is not negotiable and shall not be used for any spirits other than those described therein. The collector will enter on the original and the copy or copies of Form 1594 in the space provided, the serial number, date and amount of the certificate issued. The collector will retain one copy each of Form 179 and Form 1520 and the original copy of Form 1594, and will mail or deliver the certificate, Form 1595, and the original and remaining copies of Form 179 and Form 1520 to the distiller or his designated agent, in accordance with the distiller's request on Form 1594. Where the certificate, Form 1595, covers a removal of spirits by pipe line or a tank car shipment to a consignee in the same supervisory district, the collector will send the copy of the application, Form 1594, to the district supervisor, and, in case the certificate, Form 1595, covers a tank car shipment of spirits to a consignee located in a different supervisory district, the collector will send the remaining copy of Form 1594 to the supervisor of the district in which the consignee is located.

(53 Stat. 298, as amended, 335, as amended, 396; 26 U. S. C. 2800, 2883, 3300)

§ 183.549 *Route board.* Railroad tank cars used for the transportation of tax-paid distilled spirits must be

equipped with a route board at least 10 by 12 inches in size, to which Form 1595 can be attached. Such board shall be of substantial material and shall be affixed permanently and securely to the tank car by roundheaded or carriage bolts, nutted and riveted, battered or welded.

(53 Stat. 335, as amended; 26 U. S. C. 2883)

§ 183.550 Bill of lading. The distiller shall incorporate in the bill of lading a description of Form 1595, as follows:

Form 1595, "Collector's Certificate of Tax-payment of Distilled Spirits for Shipment in Tank Cars."

Serial No. _____ Owner and No. of Car _____
Vendor _____ Address _____
Vendee _____ Address _____

Where no bill of lading is issued, as in the case of transfer of a tank car between plants by switching arrangements or a pipe line transfer, the distiller shall incorporate in Form 1520 such description of Form 1595.

(53 Stat. 335, as amended; 26 U. S. C. 2883)

§ 183.551 Storekeeper-gauger's verification. The distiller shall give the certificate of tax payment (Form 1595), the bill of lading (if any), and all copies of Form 179 and Form 1520 to the storekeeper-gauger at the distillery. The storekeeper-gauger will verify the contents of the weighing tank and the description of Form 1595 in the bill of lading or on Form 1520, as the case may be, and will date and sign the certificate, Form 1595, in the space provided therefor. The certificate must be attached to a board on the weighing tank.

(53 Stat. 298, as amended, 335, as amended; 26 U. S. C. 2800, 2883)

RELEASE OF SPIRITS FOR TRANSFER

§ 183.552 By pipe line to contiguous premises. When the certificate of tax-payment has been affixed to the weighing tank, in the case of pipe line transfers to contiguous premises, it will be cancelled in the same manner as the taxpaid stamp on a package. The storekeeper-gauger will unlock the outlet valve and permit the distiller to transfer the spirits by pipe line to the contiguous premises named in the certificate. The spirits shall be transferred only under the immediate supervision of the storekeeper-gauger who, after release of the spirits, will forward one copy each of Form 179 and Form 1520 and the cancelled Form 1595 to the district supervisor, retain one copy of Form 179 and Form 1520, and deliver one copy of Form 179 and two copies of Form 1520 to the distiller. The distiller will deliver immediately one copy of Form 1520 to the proprietor of the contiguous establishment.

(53 Stat. 298, as amended, 335, as amended; 26 U. S. C. 2800, 2883)

§ 183.553 By tank car. When spirits are to be removed to a tank car for shipment the certificate of taxpayment shall be placed upon the weighing tank by the distiller, whereupon the storekeeper-gauger will unlock the outlet valve and permit the spirits to be transferred to the tank car named in the certificate. The spirits shall be transferred only under the immediate super-

vision of the storekeeper-gauger. Upon deposit of the spirits in the tank car, the distiller will remove the certificate of taxpayment from the weighing tank and affix it securely to the route board on the tank car, whereupon it will be cancelled in the same manner as the taxpaid stamp on a package and then covered with a coating of transparent varnish, shellac or lacquer. The storekeeper-gauger will verify the contents of the tank car, release same for shipment and note on all copies of Form 1520 the date of the release. When the tank car is released, the storekeeper-gauger will forward one copy each of Form 179 and Form 1520 to the district supervisor, retain one copy of each form, and deliver one copy of Form 179 and two copies of Form 1520 together with the bill of lading (if any) to the distiller. The distiller will forward immediately one copy of Form 1520 to the vendee.

(53 Stat. 298, as amended, 335, as amended; 26 U. S. C. 2800, 2883)

PROCEDURE WHEN TANK CAR IS EMPTIED

§ 183.554 Requirements. When tax-paid distilled spirits are received in a tank car, the vendee authorized to receive such spirits shall, at the time the car is emptied, dispose of the certificate of tax-payment, Form 1595, in accordance with the procedure prescribed by Regulations 11 (26 CFR, Part 189) or Regulations 15 (26 CFR, Part 190). The district supervisor will investigate any discrepancy which may be found respecting the shipment in accordance with such regulations.

(53 Stat. 335, as amended; 26 U. S. C. 2883)

DEPOSIT IN WAREHOUSE OPERATED ON DISTILLERY PREMISES BY THE DISTILLER

§ 183.555 Gauge of spirits, Form 1520. Where the distiller operates an internal revenue bonded warehouse on the distillery premises and spirits produced at the distillery are to be entered for deposit in such warehouse, the spirits shall, as authorized by §§ 183.480-183.505, be drawn into approved containers, gauged, marked, and branded, and then immediately deposited in such warehouse, or shall be run into a weighing tank, immediately gauged and transferred by pipe line into tanks in such warehouse: *Provided*, That where the cistern room is not equipped with a weighing tank, the spirits may be transferred by pipe line to a properly equipped weighing tank in such warehouse, gauged, and immediately deposited in storage tanks in the warehouse, or removed for authorized purposes. The spirits will be transferred to the warehouse and deposited therein under the immediate supervision of the storekeeper-gauger. The storekeeper-gauger will enter the details of the gauge on Form 1520, in triplicate, and will note on each copy of Form 1520 the proof at which the spirits were distilled and, if transferred to a warehouse tank, the serial number thereof. Upon completion of the form, the storekeeper-gauger will deliver all copies thereof to the distiller for the execution of his entry of the spirits for deposit.

(53 Stat. 298, as amended, 333, 335, as amended, 355, 492; 26 U. S. C. 2800, 2878, 2883, 3070, 4017)

§ 183.556 Distiller's entry for deposit. The distiller's entry for deposit shall be executed in the following form:

(Date) _____

The distilled spirits described herein are hereby entered for deposit in Internal Revenue Bonded Warehouse No. _____, State of _____

(Distiller) _____

The entry shall be executed on the same date that the spirits are removed from the distillery. After execution of the entry, the distiller shall return the three copies of Form 1520 to the storekeeper-gauger, who will retain one copy as a permanent record of the deposit of the spirits in the warehouse, forward one copy to the district supervisor, and deliver one copy to the distiller.

(53 Stat. 333; 26 U. S. C. 2879)

§ 183.557 Mixing of different spirits prohibited. Spirits transferred by pipe line to an internal revenue bonded warehouse may not be deposited with other spirits in weighing or storage tanks, except as authorized by Regulations 10 (26 CFR Part 185).

(53 Stat. 391; 26 U. S. C. 3254)

§ 183.558 Sufficiency of warehouse bond. Where the bond covering the operation of an internal revenue bonded warehouse on the distillery premises is given in less than the maximum penal sum of \$200,000, as shown by the record furnished by the district supervisor pursuant to Regulations 10 (26 CFR Part 185), the storekeeper-gauger in charge of the warehouse will see that the tax liability on the quantity of spirits deposited in the warehouse, plus the tax liability on spirits represented by all outstanding approved Forms 236 (§§ 183.562 and 183.575) is within the limits of the penal sum of the bond.

DEPOSIT IN WAREHOUSE OPERATED BY DISTILLER ON CONTIGUOUS PREMISES

§ 183.559 Procedure. Where the distiller operates an internal revenue bonded warehouse on premises contiguous to the distillery premises, and the location of the warehouse is such that the storekeeper-gaugers assigned to the cistern room and the warehouse are able to maintain the same supervision of the deposit in such warehouse of spirits produced at the distillery as is required in the case of the deposit in a warehouse on the distillery premises of spirits produced at such distillery, the distiller may deposit spirits in such contiguous warehouse in accordance with the procedure prescribed in §§ 183.555-183.556 for the deposit of spirits in an internal revenue bonded warehouse operated by the distiller on the distillery premises, except that where separate Government offices are maintained for the distillery and the warehouse an extra copy of Form 1520 will be prepared and one copy of such form will be filed in each Government office. When spirits are so deposited, the storekeeper-gauger assigned to the cistern room will in each instance deliver directly to the storekeeper-gauger at the warehouse a copy of the Form 1520. The storekeeper-gauger supervising the ware-

house will personally verify the number of containers and the quantity received for deposit. Where the spirits cannot be deposited under such direct supervision, the procedure prescribed in §§ 183.561-183.573, inclusive, will be followed.

(53 Stat. 333, 335, as amended, 355; 26 U. S. C. 2878, 2883, 3070)

§ 183.560 *Sufficiency of warehouse bond.* Where the bond covering the operation of an internal revenue bonded warehouse on premises contiguous to the distillery premises is given in less than the maximum penal sum of \$200,000, as shown by the record furnished by the district supervisor pursuant to Regulations 10 (26 CFR Part 185), and distilled spirits produced at the distillery are deposited in such warehouse in accordance with the procedure prescribed in § 183.559, the storekeeper-gauger in charge of the warehouse will see that the tax liability on the quantity of spirits deposited in the warehouse, plus the tax liability on spirits represented by all outstanding approved Forms 236 (§§ 183.562 and 183.575) is within the limits of the penal sum of the bond.

TRANSFER TO WAREHOUSE OFF DISTILLERY PREMISES IN SAME DISTRICT, EXCEPT WAREHOUSE OPERATED BY DISTILLER ON CONTIGUOUS PREMISES

§ 183.561 *Application, Form 236.* Where spirits are to be transferred to and entered for deposit in an internal revenue bonded warehouse located off the distillery premises in the same supervisory district, and such warehouse is not operated by the distiller on premises contiguous to the distillery premises, the proprietor of the receiving warehouse shall execute an application for the transfer of the spirits on Form 236. The applicant shall enter all applicable data indicated by the form including the maximum quantity in tax gallons to be transferred in any one truck, railroad car, or other vehicle, and the type of conveyance. The name of the carrier shall not be specified on Form 236. The applicant shall prepare an original and five copies of Form 236 and give them to the storekeeper-gauger in charge of the receiving warehouse.

(53 Stat. 333, 335, as amended; 26 U. S. C. 2878, 2883)

§ 183.562 *Storekeeper-gauger's certificate of sufficiency of warehouse bond.* Upon receipt of Form 236 by the storekeeper-gauger in charge of the warehouse, he will compare the penal sum of the bond as stated in the application with his record furnished by the district supervisor pursuant to Regulations 10 (26 CFR Part 185). If the bond is given in the maximum penal sum of \$200,000, he will certify to the sufficiency thereof on Form 236 and return all six copies of the form to the proprietor of the warehouse. If the bond is given in less than the maximum penal sum, the storekeeper-gauger in charge will determine from his records whether the tax liability on the quantity of distilled spirits represented by the Form 236, plus the quantity of distilled spirits stored in the warehouse, plus the quantity represented by all outstanding approved Forms 236, is within the limits of the penal sum of

the transportation and warehousing bond. If so, he will certify to the sufficiency of the bond on Form 236, record such certification in his records, and return all six copies of the form to the proprietor. If the transportation and warehousing bond is not sufficient, he will certify to that fact on Form 236 and return all six copies to the proprietor. The proprietor will forward all six copies of the approved Form 236 to the proprietor of the consignor-distillery. The proprietor of the warehouse will be responsible for all outstanding approved Forms 236. If, at any time, he decides not to use one, he will obtain all copies from the consignor and give them to the storekeeper-gauger in charge of the warehouse for cancellation and return to the proprietor of the warehouse.

§ 183.563 *Spirits to be transferred.* When the distiller desires to make shipment, he will give a copy of Form 236 to the storekeeper-gauger in charge and furnish him a complete description of the spirits to be shipped.

§ 183.564 *Report of gauge.* Unless previously packaged, the spirits designated by the proprietor to be transferred will, as authorized by §§ 183.480-183.505, be drawn from the receiving cisterns into casks or packages, gauged, marked and branded, or into a weighing tank, gauged, and run by pipe line into a properly equipped railroad tank car, or into tanks located in a contiguous internal revenue bonded warehouse not operated by the distiller. The quantity transferred shall not exceed the maximum stated in the application. The details of the gauge will be entered by the storekeeper-gauger on five copies of Form 1520.

(53 Stat. 333, 335, as amended, 492; 2878, 2883, 4017)

§ 183.565 *Tank cars.* Each railroad tank car used to transport distilled spirits in bond must have permanently and legibly marked or painted thereon its number, capacity in gallons, and the name or symbols of the owner. The dome or manhole covers on all railroad tank cars used for shipping distilled spirits in bond shall be equipped with facilities for sealing with a cap seal when closed, and the outlet valves and all other openings to or from the tank cars shall be so constructed that they may be closed and securely fastened on the inside or sealed in like manner.

(53 Stat. 335, as amended; 26 U. S. C. 2883)

§ 183.566 *Seals.* Cap seals, to be furnished by the Government, will be used for sealing the tank car, and such seals will be attached as soon as the car is filled.

(53 Stat. 335, as amended; 26 U. S. C. 2883)

§ 183.567 *Inspection of tank car.* Upon receiving an order to gauge spirits to be transferred in bond in a railroad tank car, the storekeeper-gauger at the distillery will inspect the car to see that the dome may be sealed with a cap seal when closed, and that all other openings to or from the car may be closed and securely fastened on the inside or sealed in like manner. If the car is not so con-

structed, the officer will not permit it to be filled.

§ 183.568 *Filling of tank car.* The tank car must be filled in the immediate presence of the storekeeper-gauger. The pipe line from the distillery weighing tank to the tank car must be in full view of the officer and must not be connected or used except in his presence. The officer will seal the car as soon as it is filled. The officer will enter on Form 1520, covering the gauge of the spirits, the level of the spirits above or below the full mark and the temperature of the spirits at filling; for example: "Filled two inches above full mark at 80° F." The storekeeper-gauger will note on Form 236 the serial numbers of seals used on the tank car.

(53 Stat. 333, 335, as amended; 26 U. S. C. 2878, 2883)

§ 183.569 *Route board.* Railroad tank cars used for the transportation of spirits in bond must be equipped with a route board conforming to the requirements of § 183.549.

(53 Stat. 335, as amended; 26 U. S. C. 2883)

§ 183.570 *Label to be attached.* When spirits are shipped in bond in a railroad tank car, a label dated and signed by the storekeeper-gauger showing that the spirits are shipped in bond and giving the name, registry number and location (city or town and State) of the distillery from which shipped, and the warehouse to which shipped, shall be securely attached to the route board, where it may be readily examined by Government officers. The label, which will be furnished by the distiller, will be in substantially the following form:

Shipped in Bond by	
BOURBON DISTILLING COMPANY	
D. No. 98, Frankfort, Ky.	
To	
COMMERCIAL WAREHOUSE COMPANY	
I. R. B. W. No. 110, Louisville, Ky.	
(Date)	(Storekeeper-gauger)

(53 Stat. 335, as amended; 26 U. S. C. 2883)

§ 183.571 *Distiller's entry for deposit.* When the spirits have been packaged, gauged for transfer by pipe line to tanks in a contiguous internal revenue bonded warehouse not operated by the distiller, or run into a railroad tank car and such tank car sealed, the storekeeper-gauger in charge will deliver the copy of Form 236 and the five copies of Form 1520 to the distiller. The distiller shall, on the same date that the spirits are to be removed from the distillery, execute on all six copies of Form 236, the description of the packages, tank car, or pipe line transfer, and on all five copies of Form 1520, the entry for deposit. He shall immediately return all copies of such forms to the storekeeper-gauger in charge who will release the spirits for shipment.

(53 Stat. 333, 335, as amended; 26 U. S. C. 2879, 2883)

§ 183.572 *Storekeeper-gauger's certificate of removal.* Upon removal of the spirits, the storekeeper-gauger will execute his certificate of gauge and removal on Form 236. He will retain one copy each of Form 236 and 1520, furnish

one copy of each to the distiller, forward one copy of Form 236 to the district supervisor, and forward three copies of Form 236 and three copies of Form 1520 to the storekeeper-gauger in charge at the receiving warehouse. When shipment is made by truck, the three copies each of Form 236 and 1520 for the storekeeper-gauger in charge at the receiving warehouse will be sealed in an envelope addressed to such storekeeper-gauger in charge and handed to the person in charge of the truck for delivery to him.

(53 Stat. 333, 335, as amended; 26 U. S. C. 2878, 2883)

§ 183.573 *Storekeeper-gauger's receipt of spirits at warehouse.* The storekeeper-gauger at the receiving warehouse will examine each shipment upon its arrival and ascertain and report on Form 1520 any losses or discrepancies and will dispose of Forms 236 and 1520, in accordance with Regulations 10 (26 CFR Part 185).

(52 Stat. 333, 335, as amended; 26 U. S. C. 2878, 2883)

TRANSFER TO WAREHOUSE OFF DISTILLERY PREMISES, IN DIFFERENT DISTRICT

§ 183.574 *Application, Form 236.* Where spirits are to be transferred to and entered for deposit in an internal revenue bonded warehouse located in a different supervisory district than the distillery, the proprietor of the receiving warehouse shall execute an application for the transfer of the spirits on Form 236. The applicant shall enter all applicable data indicated by the form including the maximum quantity in tax gallons to be transferred in any one truck, railroad car, or other vehicle, and the type of conveyance. The name of the carrier shall not be specified on Form 236. The applicant shall prepare an original and six copies of Form 236 and give them to the storekeeper-gauger in charge of the receiving warehouse.

(53 Stat. 333, 335, as amended; 26 U. S. C. 2878, 2883)

§ 183.575 *Storekeeper-gauger's certificate of sufficiency of warehouse bond.* Upon receipt of Form 236 by the storekeeper-gauger in charge at the warehouse, he will compare the penal sum of the bond as stated in the application with his record furnished by the district supervisor pursuant to Regulations 10 (26 CFR Part 185). If the bond is given in the maximum penal sum of \$200,000, he will certify to the sufficiency thereof on Form 236 and return all seven copies of the form to the proprietor of the warehouse. If the bond is given in less than the maximum penal sum, the storekeeper-gauger in charge will determine from his records whether the tax liability on the quantity of spirits represented by the Form 236, plus the quantity of spirits stored in the warehouse, plus the quantity represented by all outstanding approved Forms 236, is within the limits of the penal sum of the transportation and warehousing bond. If so, he will certify to the sufficiency of the bond on Form 236, record such certification in his records, and return all seven copies of the form to the proprietor. If the transportation and warehousing bond is not

sufficient, he will certify to that fact on Form 236 and return all seven copies to the proprietor. The proprietor will forward all seven copies of the approved Form 236 to the proprietor of the consignor-distillery. The proprietor of the warehouse will be responsible for all outstanding approved Forms 236. If, at any time, he decides not to use one, he will obtain all copies from the consignor and give them to the storekeeper-gauger in charge of the warehouse for cancellation and return to the proprietor of the warehouse.

§ 183.576 *Spirits to be transferred.* When the distiller desires to make shipment, he will give a copy of Form 236 to the storekeeper-gauger in charge and furnish him a complete description of the spirits to be shipped.

§ 183.577 *Report of gauge.* Unless previously packaged, the spirits designated by the proprietor to be transferred will, as authorized by §§ 183.480-183.565, be drawn from the receiving cisterns into casks or packages, gauged, marked and branded, or into a weighing tank, gauged, and run by pipe line into a properly equipped railroad tank car. The quantity transferred shall not exceed the maximum stated in the application. The details of the gauge will be entered by the storekeeper-gauger on six copies of Form 1520.

(53 Stat. 333, 335, as amended, 492; 26 U. S. C. 2878, 2883, 4017)

§ 183.578 *Tank car requirements.* If the spirits are to be transported in a railroad tank car, such tank car must be constructed, marked, inspected, filled, sealed, and labeled, as provided in §§ 183.565-183.570.

(53 Stat. 335, as amended; 26 U. S. C. 2883)

§ 183.579 *Distiller's entry for deposit.* When the spirits have been packaged, or run into a railroad tank car and such tank car sealed, the storekeeper-gauger in charge will deliver the copy of Form 236 and the six copies of Form 1520 to the distiller. The distiller shall, on the same date that the spirits are to be removed from the distillery, execute on all seven copies of Form 236 the description of the packages or tank car to be transferred and on all six copies of Form 1520 the entry for deposit. He shall immediately return all copies of such forms to the storekeeper-gauger in charge who will release the spirits for shipment.

(53 Stat. 333; 26 U. S. C. 2879)

§ 183.580 *Storekeeper-gauger's certificate of removal.* Upon removal of the spirits, the storekeeper-gauger will execute his certificate of gauge and removal on Form 236. He will retain one copy each of Form 236 and 1520, furnish one copy of each to the distiller, forward one copy of each to the supervisor-consignor, and forward four copies of Form 236 and three copies of Form 1520 to the storekeeper-gauger in charge at the receiving warehouse. When shipment is made by truck, the four copies of Form 236 and the three copies of Form 1520 for the storekeeper-gauger in charge at the receiving warehouse will be sealed in an envelope addressed to such store-

keeper-gauger in charge and handed to the person in charge of the truck for delivery to him.

(53 Stat. 333, 335, as amended, 492; 26 U. S. C. 2878, 2883, 4017)

§ 183.581 *Storekeeper-gauger's receipt of spirits at warehouse.* The storekeeper-gauger at the receiving warehouse will examine each shipment upon its arrival and ascertain and report on Form 1520 any losses or discrepancies and will dispose of Forms 236 and 1520, in accordance with Regulations 10 (26 CFR Part 185).

(53 Stat. 333, 335, as amended; 26 U. S. C. 2878, 2883)

TRANSFER OF RUM TO DISTILLERY DENATURING BONDED WAREHOUSE

§ 183.582 *Application, Form 573.* Where rum of not less than 150 degrees of proof is to be transferred to a denaturing bonded warehouse on the distillery premises for denaturation, the proprietor will file application on Form 573, in triplicate, with the storekeeper-gauger in charge, for the transfer of the spirits. The applicant shall specify the maximum quantity in tax gallons to be transferred.

(53 Stat. 335, as amended, 355; 26 U. S. C. 2883, 3070)

§ 183.583 *Sufficiency of bond.* Where the bond covering operation of a denaturing bonded warehouse is given in less than the maximum penal sum of \$100,000, the district supervisor will inform the storekeeper-gauger in charge of the penal sum of the bond, and the storekeeper-gauger will see that the quantity of rum transferred to such warehouse is within the limits of the bond.

(53 Stat. 335, as amended, 355; 26 U. S. C. 2883, 3070)

§ 183.584 *Storekeeper-gauger's report of gauge and transfer.* The rum may be gauged by weight in the cistern room or in the denaturing bonded warehouse at the time of deposit therein. The details of the gauge of the spirits will be reported by the storekeeper-gauger on Form 1520, in triplicate. Upon transfer of the spirits, and completion of the gauge, the storekeeper-gauger will execute his certificate of gauge and transfer on Form 573 and attach one copy of Form 1520, covering the gauge of the rum, to each copy of Form 573. The storekeeper-gauger will then forward one copy of each form to the district supervisor, deliver one copy of each to the distiller, and retain one copy of each.

(53 Stat. 335, as amended, 355, 492; 26 U. S. C. 2883, 3070, 4017)

REMOVAL OF DISTILLED SPIRITS, FREE OF TAX FOR EXPORTATION

§ 183.585 *Procedure.* When the distiller desires to remove distilled spirits of not less than 180 degrees proof, free of tax, from the distillery receiving cisterns for exportation in tank cars, he will file application on Form 206, in quintuplicate, and bond on Form 547, 548, 657, or 658, as the case may be, in triplicate, with the district supervisor and otherwise comply with applicable requirements of Regulations 10 (26 CFR

Part 185), governing the withdrawal of distilled spirits from internal revenue bonded warehouses, free of tax, for exportation, which are hereby extended to cover the exportation, free of tax, of distilled spirits from the distillery. The tank cars must be so constructed that all openings may be securely closed and sealed.

(53 Stat. 336, 337, 339; 26 U. S. C. 2885, 2886, 2888)

RECORDS

§ 183.586 *Distiller's records.* The distiller shall enter on Form 1598 all removals of distilled spirits from the distillery, as indicated by the headings of the various columns and lines and in accordance with the instructions printed on the form.

(53 Stat. 321, 328, 373; 26 U. S. C. 2841, 2859, 3171)

SUBPART X—LOSSES OF DISTILLED SPIRITS ON PREMISES OF A REGISTERED DISTILLERY OR IN TRANSIT THERETO

§ 183.595 *Loss by theft.* The tax shall be collected on distilled spirits stolen while on the premises of a registered distillery or in transit thereto for redistillation, unless the distiller submits proof as to the cause of the loss and establishes to the satisfaction of the Commissioner that it did not occur as the result of connivance, collusion, fraud, or negligence on the part of the distiller, warehouseman, consignor, consignee, bailee, or carrier or the employees of any of them. Claim for remission of tax on distilled spirits lost by theft shall be filed as provided in this subpart. The tax on distilled spirits lost by theft may be remitted or refunded only to the extent that the claimant is not indemnified or recompensed for such tax.

(53 Stat. 335, as amended; 340, as amended; 26 U. S. C. 2883, 2901)

§ 183.596 *Unauthorized voluntary destruction.* The tax shall be collected on distilled spirits voluntarily destroyed while on the premises of a registered distillery, or in transit thereto for redistillation, unless such spirits were unfit for use for beverage purposes, and the distiller or other person responsible for the tax obtained authorization for such destruction in each case, as required by Subpart S of this part.

(53 Stat. 335, as amended; 340, as amended; 26 U. S. C. 2883, 2901)

§ 183.597 *Losses except by theft.* The tax on distilled spirits lost otherwise than by theft while on the premises of a registered distillery or in transit thereto, may be remitted. In the case of any such loss of distilled spirits prior to payment of the tax thereon, the district supervisor may require the distiller, owner, or other person responsible for the tax to submit proof as to the cause of such loss and, where deemed necessary, to file a claim for remission of the tax as provided by this subpart.

(53 Stat. 335, as amended; 340, as amended; 373, as amended; 26 U. S. C. 2883, 2901, 3170)

§ 183.598 *Report of losses.* Losses of distilled spirits on the premises of a registered distillery or in transit thereto must be reported to the district super-

visor by the distiller immediately after the losses are discovered. Where losses of spirits in the distillery occur or are discovered while a Government officer is on duty, the officer will immediately make a full report of the loss to the district supervisor. The reports should set out the nature, cause, and extent of the loss in sufficient detail to bring out all the known material facts and circumstances surrounding the loss. The condition of each cistern or other container from which loss has been sustained, and the quantity lost therefrom, should be reported by the officer.

(53 Stat. 340, as amended; 26 U. S. C. 2901)

§ 183.599 *Investigation by district supervisor.* The district supervisor will consider the nature and extent of any loss reported by the distiller or Government officer and will immediately make such investigation and require such evidence to be submitted as he may deem necessary. Whenever so required the district supervisor will forward reports and data relating to losses to the Commissioner for review.

(53 Stat. 373, as amended; 26 U. S. C. 3170)

§ 183.600 *Filing of claims.* Claims for remission of tax on spirits lost on the premises of a registered distillery or in transit thereto, when required, will be filed promptly with the supervisor of the district in which the distillery is located. Where a required claim for remission of tax on such spirits is not filed as provided in §§ 183.595 and 183.597, the district supervisor will report the matter to the Commissioner.

(53 Stat. 335, as amended; 340, as amended; 26 U. S. C. 2883, 2901)

§ 183.601 *Form of claims.* Claims for remission of tax for losses occurring on distillery premises, or in transit thereto, shall be made on letter size paper, in duplicate, and shall set forth, under oath, the following information:

(a) The name of the distiller and the registry number and location of the distillery;

(b) The serial numbers of the receiving cisterns or other containers from which the spirits were lost;

(c) The quantity of spirits lost from each cistern or other container, and the total quantity of spirits covered by the claim;

(d) The total amount of tax for which the claim is filed;

(e) The date of the loss or, if such date is not known, the date on which the loss was discovered, and the cause and nature thereof, together with all the facts surrounding the loss;

(f) The name of the carrier, if any;

(g) If lost by theft, whether the loss occurred as the result of connivance, collusion, fraud, or negligence on the part of the distiller, warehouseman, owner, consignor, consignee, bailee, or carrier, or the employees of any of them;

(h) Whether the claimant is indemnified or recompensed for the tax, and, if so, the amount and nature of such indemnity or recompense. The actual value of the spirits, less the tax, must be stated explicitly, and where required, certified copies of all policies of insur-

ance or other documents of indemnity covering the spirits must be furnished.

(53 Stat. 335, as amended; 340, as amended; 26 U. S. C. 2883, 2901)

§ 183.602 *Supporting statements.* Claims for remission of tax on spirits lost while on the premises of a registered distillery or in transit thereto, must be supported by affidavits of persons having personal knowledge of the loss.

(53 Stat. 340, as amended; 26 U. S. C. 2901)

§ 183.603 *Examination of claim.* When a claim for remission of tax is received by the district supervisor he will carefully examine the same to see that all the required information has been furnished, and will cause such investigation to be made or require such additional evidence to be submitted as he may deem necessary. Upon completion of his investigation, if any, the district supervisor will forward the claim and accompanying papers, together with any pertinent reports and documentary evidence, to the Commissioner with his recommendation in respect to the allowance or disallowance of the claim.

§ 183.604 *Records.* Losses of spirits at the distillery will be reported by the storekeeper-gauger on Form 1686 and by the distiller on Form 1598.

(53 Stat. 321, 333, 373; 26 U. S. C. 2841, 2877, 3171)

§ 183.605 *District supervisor's account.* An account of losses of distilled spirits on the distillery premises shall be kept on Form 1691. The account shall show all the information as indicated in the heading and by the various columns and as required by instructions issued in respect thereto and by this part.

§ 183.606 *Prior losses.* Any claims for remission or refund of the tax on any loss of spirits established prior to September 1, 1950, shall be subject to the provisions of section 2901 of the Internal Revenue Code and this part as they existed prior to that date.

(Sec. 4, Public Law 448, 81st Cong. Approved Feb. 21, 1950)

§ 183.607 *Losses after taxpayer payment.* Nothing in section 2901 of the Internal Revenue Code as amended by section 3 of the act of February 21, 1950, or as theretofore amended, or in this part, shall be construed to authorize refund of the tax where the loss occurred after the tax was paid.

SUBPART Y—SPIRITS PRODUCED AND NOT ACCOUNTED FOR

§ 183.610 *Commissioner to make assessments.* Under the law, it is the duty of the Commissioner to inquire and determine whether the distiller has accounted for all the spirits produced by him. If the Commissioner finds that the distiller has not accounted for all the spirits produced by him, he shall, from all the evidence he can obtain, determine what quantity of spirits was actually produced by such distiller and make an assessment for the difference between the quantity reported and the quantity shown to have been actually produced, at the rate imposed by law.

(53 Stat. 323; 26 U. S. C. 2846)

§ 183.611 *Storekeeper-gauger to report deficiencies.* The storekeeper-gauger, upon completion of his monthly record, Form 1636, will compare the calculated yield for that month with the actual production, and take appropriate action concerning any deficiencies, in accordance with § 183.384.

§ 183.612 *District supervisor's examination of returns.* Upon receipt of the distiller's monthly return, Form 1598, the district supervisor will examine it to determine whether the distiller has accounted for all the spirits produced by him during the month. If he finds that the distiller apparently has not accounted for all the spirits produced by him, he shall make such investigation as he may deem necessary and determine, from all the evidence he can obtain, the quantity of spirits actually produced by the distiller.

(53 Stat. 323, 373, as amended; 26 U. S. C. 2846, 3170)

§ 183.613 *Use of materials not reported.* If the district supervisor should find that the distiller has received on his premises materials which have not been accounted for, or has used materials which have not been reported as used, and has produced spirits which have not been reported, the quantity of spirits produced and not reported should be determined from all the evidence that can be obtained, including evidence of the normal actual yield of spirits from such materials at the particular plant.

(53 Stat. 323; 26 U. S. C. 2846)

§ 183.614 *Determining spirits produced.* If it is found that all materials received have been accounted for and all materials used have been reported, but that the distiller has not accounted for all the spirits produced, the quantity actually produced should be determined from all the evidence that can be obtained. The evidence that spirits have been produced from materials reported used and have not been accounted for by the distiller should be direct and positive.

(53 Stat. 323; 26 U. S. C. 2846)

§ 183.615 *Notice to distiller.* If it is determined that the distiller has not accounted for all the spirits produced by him, the district supervisor will, unless the interests of the Government require an immediate assessment, notify the distiller of the proposed assessment and afford him an opportunity to submit within 30 days, or such further time as the district supervisor may consider reasonable, evidence showing why the proposed assessment should not be made.

§ 183.616 *Nature of evidence.* The evidence submitted by the distiller should be in the form of affidavits and certified documents.

§ 183.617 *Consideration of distiller's response.* If the distiller responds to the notice and submits evidence bearing on the merits of the proposed assessment, the district supervisor will give due consideration thereto and make such further investigation as he may deem advisable. If, after consideration of all the facts, the district supervisor finds that tax is due, he will report the same to the Com-

missioner in accordance with the prescribed assessment procedure. If the district supervisor finds that tax should not be assessed, he will forward the affidavits and other documents submitted by the distiller, together with investigation reports, if any, to the Commissioner with his recommendation thereon.

§ 183.618 *Claim for remission.* Where the distiller claims, pursuant to notice of proposed assessment, that the spirits produced and not accounted for were actually lost on the distillery premises, the procedure prescribed by §§ 183.595-183.605 shall be applicable.

(53 Stat. 323, 340, as amended; 26 U. S. C. 2846, 2901)

§ 183.619 *Distiller's failure to respond.* If the distiller fails to respond to the notice of the proposed assessment within the time specified, the district supervisor will report to the Commissioner, in accordance with the prescribed assessment procedure, the amount found due for assessment.

SUBPART Z—SUSPENSION AND RESUMPTION OF OPERATIONS

SUSPENSION OF OPERATIONS

§ 183.625 *Notice, Form 124.* Any distiller desiring to suspend operations at his distillery shall give notice on Form 124, in duplicate, stating when he will suspend operations. The notice will be delivered to the storekeeper-gauger in charge at the distillery. Form 124 will not be required when operations are suspended pursuant to the filing of Form 1696.

(53 Stat. 324; 26 U. S. C. 2850)

§ 183.626 *Date of suspension.* The distiller will fix in the notice the time when all the beer on the distillery premises will be distilled and all spirits in the distillery run into the receiving cisterns in the cistern room, except unfinished spirits or distillates containing one-half of 1 percent or more of aldehydes or 1 percent or more of fusel oil which are to be retained on the premises during a temporary change in the type of distillery, as provided in Subpart CC of this part.

(53 Stat. 324; 26 U. S. C. 2850)

§ 183.627 *Locking furnace doors, etc.* When notice of suspension is given by the distiller, the storekeeper-gauger will at the time fixed in the notice lock the furnace door of each still, or the control valve in the pipe line conveying steam or fuel to each still, and will supervise the disconnection of the distillery machinery and the removal to the bonded warehouse or the cistern room of some portion of such machinery necessary to distillation. The locks used for securing furnace doors, or the control valves in steam or fuel lines, will be taken from such other place in the distillery, where locks are not necessary while the distillery is suspended, as may be designated by the district supervisor. In lieu of removing a portion of the distilling apparatus to the warehouse or other secure place, the district supervisor may require two of the ports (manheads) of column stills to be locked open by passing a chain or two iron straps through the

ports and around the outside of the still, and locking the chain or straps in place.

(53 Stat. 324; 26 U. S. C. 2850)

§ 183.628 *Officer's certificate of suspension.* The officer will certify on each copy of Form 124 to the action taken by him, and will furnish one copy of the form to the distiller and forward the remaining copy to the district supervisor. The district supervisor may relieve any officer assigned to the plant from duty thereat during the period of suspension.

(53 Stat. 324; 26 U. S. C. 2850)

§ 183.629 *Mash, wort, or beer at suspended distillery forbidden.* Except as provided in § 183.630, no distiller may, after the time fixed in his notice, Form 124, for suspension of work at the distillery, carry on the business of a distiller on the said premises, or have mash, wort, or beer in his distillery or on any premises connected therewith, or have in his possession or under his control any mash, wort, or beer with intent to distill the same on said premises.

(53 Stat. 324; 26 U. S. C. 2850)

§ 183.630 *Suspension caused by unavoidable accident.* In case of an accident necessitating a suspension of the distillery for a period of more than three days, the distiller should, if possible, distill all the beer and unfinished spirits on hand before filing notice of suspension in accordance with § 183.625. Should the accident be of such a nature as to render this impossible, the distiller will immediately give notice of suspension on Form 124, in duplicate, as provided in § 183.625. The storekeeper-gauger will then lock the furnace doors of the stills or the control valves in the steam or fuel lines leading to the stills, and supervise the disconnection and removal of distillery machinery, as provided in § 183.627. The officer will then certify on Form 124, in duplicate, to the action taken by him, and state the kind and quantity, if any, of mash, beer or unfinished spirits on hand at the time of such suspension, and will furnish one copy of the form to the distiller and forward the remaining copy to the district supervisor. The district supervisor may relieve any officer assigned to the plant from duty thereat during the period of suspension.

(53 Stat. 324; 26 U. S. C. 2850)

RESUMPTION OF OPERATIONS

§ 183.631 *Notice, Form 125.* No distiller may carry on the business of a distiller after the time stated in his notice of suspension, Form 124, until he shall have given another notice on Form 125, in duplicate, to the district supervisor, stating the time when he will resume operations. This notice should be forwarded to the district supervisor a sufficient time in advance of the date it is desired to resume operations, to enable the district supervisor to assign a storekeeper-gauger to remove the locks and supervise operations. The notice should ordinarily reach the district supervisor at least 48 hours in advance of the date the distiller desires to resume operations. The district supervisor will designate an officer

to remove the locks and other fastenings placed on the equipment at the time of suspension and to supervise the connection of the machinery on the date specified in the Form 125. Where the suspension was caused by accident, and beer or unfinished spirits remained on hand, the designated officer will determine whether the same kind and quantity of beer or unfinished spirits reported on Form 124 as on hand at the time of suspension are on hand at the time of resumption, less natural evaporation.

(53 Stat. 324; 26 U. S. C. 2850)

§ 183.632 *Officer's certificate of removal of locks and fastenings.* The officer will certify on Form 125, in duplicate, to the action taken by him, and to the kind and quantity, if any, of beer or unfinished spirits on hand at the time of such resumption, and will furnish one copy of Form 125 to the distiller and forward the remaining copy to the district supervisor.

(53 Stat. 324; 26 U. S. C. 2850)

§ 183.633 *Unauthorized removal of locks and fastenings.* No revenue officer or other person may remove Government locks and fastenings and permit connection of the machinery where a distillery has been suspended, except by direction of the district supervisor pursuant to notice of resumption.

(53 Stat. 324; 26 U. S. C. 2850)

SUBPART AA—REGISTRY OF STILLS

§ 183.640 *Registry on Form 26.* Every person having in his possession or custody, or under his control, any still or distilling apparatus that is set up, must register the same on Form 26, in triplicate, with the district supervisor for the district in which it is located. Stills to be used for the production of various types of distilled spirits may be registered for "distilled spirits," and the specific type need not be shown. Thereafter, when the plant is changed from the production of one type of spirits to another, reregistration by the same distiller will not be required. The temporary suspension of a distillery does not necessitate reregistration of the stills. The operation of a distillery by alternating proprietors, where no permanent change in ownership occurs, does not require reregistration of the stills by the proprietors. When there is a change in location or use, or a bona fide change in ownership of a still, the still must be registered to reflect the change. The district supervisor will, upon approving the registration of a still on Form 26, retain one copy, forward one copy to the Commissioner, and return the remaining copy to the distiller. The distiller will retain his copy at the distillery available for inspection by Government officers.

(53 Stat. 308, as amended; 26 U. S. C. 2810)

SUBPART BB—OPERATIONS BY DISTILLER UNDER DIFFERENT TRADE NAMES OR STYLES

§ 183.645 *Commencement of operations.* Whenever a distiller desires to operate his distillery under a trade name or style which has not been previously approved, he must comply with the provisions of § 183.227 and secure approval

thereof in the manner prescribed by Subpart N prior to commencement of operations thereunder. Thereafter, whenever he desires again to operate under such trade name or style, he must comply with the provisions of § 183.233 and secure approval thereof in the manner prescribed by Subpart N of this part prior to commencement of operations thereunder.

§ 183.646 *Disposition of materials in process.* Whenever the distiller desires to operate his distillery under a trade name or style other than the trade name or style under which he is then operating, and has complied with the provisions of § 183.645, he will not be required to complete the distillation of mash, beer, and unfinished spirits in the process of manufacture before commencing business under such other trade name or style.

§ 183.647 *Finished spirits.* All finished spirits remaining in the cistern room at the time the change in trade name or style becomes effective must be marked and removed in the trade name or style under which they were finished. All finished spirits produced from the mash, beer, and unfinished spirits remaining on hand at the time the change in trade name or style becomes effective must be marked and removed in the trade name or style under which they are finished. The distiller will report the removal of such finished spirits on his Form 1598, on the same line covering its manufacture. A similar entry will be made by the storekeeper-gauger on Form 1686.

§ 183.648 *Records.* Separate record on Form 1598 will not be required for operations under each trade name, but the distiller must note on such record the trade names or styles under which he operated during the month and the dates of operation under each. The storekeeper-gauger will make a similar notation on his record, Form 1686. Where spirits are produced under a trade name, the storekeeper-gauger's report of gauge, Form 1520, must show both the real name of the actual distiller and the trade name under which the spirits were produced.

(53 Stat. 322, 373; 26 U. S. C. 2844, 3171)

SUBPART CC—ALTERNATE OPERATION AS INDUSTRIAL ALCOHOL PLANT OR FRUIT DISTILLERY

§ 183.655 *Qualifying for alternate operation.* Whenever a distillery established or operated under this part is to be operated alternately as such and as an industrial alcohol plant or fruit distillery, the procedure prescribed in Subpart M of this part for effecting such change in the type of the distillery must be complied with.

§ 183.656 *Completion of operation required.* When a registered distillery is to be operated as an industrial alcohol plant or as a fruit distillery, the business of producing spirits, except as provided in this subpart, must be completely finished by the person or persons first carrying on the business, and the distillery duly suspended before it can be operated as an industrial alcohol plant or a fruit distillery. Except as provided in §§ 183.657

and 183.658, all unfinished spirits, including high wines and low wines, and distillates containing one-half of 1 percent or more of aldehydes or 1 percent or more of fusel oil collected in accordance with the provisions of Subpart S of this part, must be redistilled and run into the cistern room and warehoused by the outgoing distiller. Except as provided in §§ 183.657 and 183.658, all such distillates or unfinished spirits must be disposed of before the distillery can be operated as an industrial alcohol plant or fruit distillery.

(53 Stat. 324; 26 U. S. C. 2850)

§ 183.657 *Retention of distillates.* Where the change in the type of plant is to be temporary only, and the quantity of distillates on hand containing one-half of 1 percent or more of aldehydes or 1 percent or more of fusel oil is insufficient for a carload shipment (but not over 10,000 gallons), and is to be shipped for denaturation, the outgoing distiller may retain such distillates under Government lock in heads and tails tanks in the distillery until the plant is again operated by him as a registered distillery under this part (but for not more than 60 days), if such distiller furnishes a duly executed consent of surety, Form 1533, in triplicate, continuing liability on the distiller's bond, Form 30, for the tax on such distillates retained on the premises, notwithstanding the change in the type of plant. When such distillates are so retained on the distillery premises, the district supervisor will cause a sample of the contents of each container not previously tested to be taken and analyzed to determine whether the distillate contains the required percentage of aldehydes or fusel oil.

(53 Stat. 346; 26 U. S. C. 2916)

§ 183.658 *Retention of unfinished spirits.* Where the change in type of plant is to be temporary only, the outgoing distiller may retain unfinished spirits under Government lock in unfinished spirits tanks provided in accordance with § 183.104 in the distillery until the plant is again operated by him as a registered distillery under this part: *Provided,* That such distiller furnishes a duly executed consent of surety, Form 1533, in triplicate, continuing liability on the distiller's bond, Form 30, for the tax on such unfinished spirits retained on the premises, notwithstanding the change in the type of plant.

§ 183.659 *Transfer of materials, etc.* The outgoing distiller may transfer to his successor materials on hand, including mash and beer in process, at the time the change in type of plant takes place, but no spirits may be so transferred, except the residue of spirits in the stills which it is not practicable to completely boil out: *Provided,* That materials not usable and residue of spirits in stills not producible under the law at the succeeding type of plant may not be transferred to the successor. Where such materials and residue of spirits are not transferable, all mash and beer must be distilled, all basic materials must be removed from the premises, and the stills and other vessels must be completely cleared of spirits, and such

spirits, if other than distillates or unfinished spirits intended for retention in accordance with the provisions of §§ 183.657 and 183.658 removed to the receiving cisterns in accordance with law before the change in type of plant becomes effective. When it is again desired to resume operations as a distiller under this part the business of producing alcohol or brandy, as the case may be, must be similarly finished and the industrial alcohol plant or fruit distillery suspended in accordance with Regulations 3 (26 CFR, Part 182) or Regulations 5 (26 CFR, Part 184), respectively.

§ 183.660 *Transfer agreement, Form 1614.* Where the outgoing distiller and his successor so arrange for the transfer of distilling materials, the outgoing distiller will file with the district supervisor four copies of Form 1614, duly executed by himself and the prospective successor. The form will be filed in sufficient time to permit consideration thereof in connection with the transferor's notice of suspension of operations and the transferee's qualifying documents. Spirits withdrawn for redistillation from other premises may not be transferred to a successor on Form 1614. The district supervisor will, upon approval, forward one copy to the transferor and one copy to the transferee. The district supervisor will retain two copies of the Form 1614, one for the file of the transferor and one for the file of the transferee. The provisions of § 183.125 concerning the verification of Form 27-A are hereby made applicable to Form 1614.

§ 183.661 *Locking of furnace door not required.* In cases of alternate operation of the registered distillery as such and as an industrial alcohol plant or fruit distillery without lapse of time, it will not be necessary for the storekeeper-gauger to lock the furnace doors of the stills or the control valves in pipe lines which convey steam or fuel to the stills, or to require disconnection of the distilling machinery.

§ 183.662 *Completion of records.* The outgoing distiller will complete his record, Form 1598, and the storekeeper-gauger his record, Form 1686, as to the removal of basic materials from the premises, or the transfer of basic materials and mash and beer in process to the successor, as the case may be, and the removal of all spirits produced by the outgoing distiller. If the distillates collected in accordance with §§ 183.390-183.412, or unfinished spirits are retained on the premises in locked tanks as provided in §§ 183.657 and 183.658, a notation will be made on Form 1598 that such distillates or unfinished spirits are temporarily retained on the premises pending resumption of operations as a registered distillery. The storekeeper-gauger will make a similar notation on his Form 1686 for such distiller. The distiller will continue to file monthly reports on Form 1598, and the storekeeper-gauger will continue to maintain a record on Form 1686 during the period such distillates or unfinished spirits are retained on the distillery premises. Where the plant is operated as a registered distillery in two or more periods during the same month by the same pro-

prietor, the operations of such proprietor will be recorded on the same Form 1598 and the same Form 1686, but appropriate notations will be made on the separating lines on each form to show the dates the distillery was operated as a fruit distillery or an industrial alcohol plant and the names under which it was so operated.

(53 Stat. 321, 333, 373; 26 U. S. C. 2841, 2877, 3171)

§ 183.663 *Records of successor.* The succeeding proprietor will enter all materials, including those in process, received from his predecessor on Form 1442 if the distillery is to be operated as an industrial alcohol plant, or on Form 15 if the distillery is to be operated as a fruit distillery. The materials will also be entered on form 1686 by the storekeeper-gauger if the distillery is to be operated as an industrial alcohol plant. If materials are transferred when the plant is again operated as a registered distillery, appropriate entry thereof will be made on the records of the transferor and of the transferee, and the storekeeper-gauger.

(53 Stat. 321, 333, 358, 373; 26 U. S. C. 2841, 2877, 3105, 3171)

§ 183.664 *Disposition of spirits.* Where a change in the type of plant takes place, the storekeeper-gauger in charge of the distillery will see that all distillates collected in accordance with §§ 183.390-183.412 are disposed of, and that all other unfinished spirits, except the residue of spirits in stills where the same is to be transferred to the successor as provided in § 183.659, are distilled and transferred to the cistern room, unless retained in locked tanks in accordance with §§ 183.657 and 183.658, respectively, before the plant is operated as another type of distillery. Upon disposition or retention in locked tanks of such distillates or unfinished spirits, and transfer of all other spirits to the cistern room, the distillery may be operated as another type of plant, but all spirits transferred to the cistern room must be branded and removed in accordance with law by the outgoing distiller in the name under which they were produced, before any spirits are deposited in the cistern room or withdrawn from the distillery by the successor, and in any event within three days of their deposit in the cistern room.

§ 183.665 *Alternate operations by same proprietor.* Where the plant is to be operated alternately as a registered distillery under this part and as an industrial alcohol plant or fruit distillery by the same proprietor, the procedure will be the same as in the case where the succeeding type of plant is to be operated under a different proprietorship, except that in lieu of the submission of a transfer agreement on Form 1614 the distiller will, where distilling materials are to be transferred to himself at the succeeding type of plant, request authority on Part 1 of the form to make such transfer.

SUBPART DD—CHANGE OF PERSONS INTERESTED IN BUSINESS

§ 183.670 *Completion of operations required.* When a succession, or actual

change, in the person or persons operating the distillery shall take place, other than a change brought about by operation of law, as by the appointment of an administrator, executor, receiver, trustee, assignee, or other fiduciary, the business of producing spirits must be completely finished by the person or persons who have been carrying on the business, and the operations suspended before the business shall be undertaken or begun by the succeeding distiller, unless by an agreement between the outgoing distiller and the successor it shall be arranged to transfer from the former to the latter, at midnight of a certain day, all mash and beer on hand, and all unfinished spirits outside the cistern room at that hour; and provided that, in either case, the notice, bond, and other qualifying documents of the successor have been approved, to take effect on the day next succeeding that at the close of which the transfer is made. Such documents should, therefore, be submitted to the district supervisor in sufficient time to permit such approval for the date desired. Except in the case of alternate operations by two or more previously qualified distillers, as provided by Subpart M of this part, the successor of a distiller shall not commence operations until all documents required for his qualification as such distiller have been approved by the district supervisor. All finished spirits on hand in the cistern room at the time of the change must be branded and removed by the outgoing distiller in the name under which they were produced before any spirits are deposited in the cistern room or withdrawn from the distillery by the successor.

§ 183.671 *Transfer agreement, Form 1614.* Where the outgoing distiller and the successor so arrange for the transfer of all mash and beer, and all unfinished spirits on hand, the outgoing distiller will file with the district supervisor four copies of Form 1614, duly executed by himself and the prospective successor. The form will be filed in sufficient time to permit consideration thereof in connection with the transferor's notice of suspension or discontinuance of operations, and the transferee's qualifying documents. Spirits withdrawn for redistillation from other premises may not be transferred to a successor on Form 1614. The district supervisor will, upon approval, forward one copy to the transferor and one copy to the transferee. The district supervisor will retain two copies, one for the file of the transferor and one for the file of the transferee.

§ 183.672 *Locking of furnace doors not required.* In such cases of succession or change in the operations of a distillery without lapse of time, it will not be necessary for the Government officer to lock the furnace doors of the stills, or the control valves on pipe lines which convey steam or fuel to the stills, or to disconnect the distilling machinery.

§ 183.673 *Records.* The outgoing distiller shall enter on his record, Form 1598, all materials and all unfinished spirits outside the cistern room transferred to his successor, who shall in turn enter such items on his record, Form 1598, as received from his predecessor.

Where the change in proprietorship is of a permanent nature, the outgoing distiller shall complete Form 1598 and submit a final report on such form to the district supervisor. Appropriate notations will be made on such final report showing the change in proprietorship and the date thereof. Where the distillery is operated under alternating proprietorships, each proprietor shall keep a separate Form 1598. When operations are conducted by the same proprietor in two or more periods during the same month, the operations by such proprietor will be entered on the same Form 1598, appropriate notations being made on the separating lines to show the names of the alternating proprietors and the dates the distillery was operated by them. The storekeeper-gauger will keep similar records on Form 1686. At the end of the month, the distiller will submit his report on Form 1598 to the storekeeper-gauger in charge in accordance with § 183.701.

(53 Stat. 321, 333, 373; 26 U. S. C. 2841, 2877, 3171)

§ 183.674 *Succession by fiduciary.* Where a change in proprietorship is brought about by operation of law; the administrator, executor, receiver, trustee, assignee, or other fiduciary may not continue the business until the required qualifying documents have been filed and approved. In the case of such change, the fiduciary shall make appropriate notation on Form 1598 of his succession, and the date thereof, and the storekeeper-gauger will make a similar notation on Form 1686.

SUBPART EE—SALES OF DISTILLED SPIRITS BY DISTILLERS

§ 183.680 *Bulk containers.* Under the regulations issued pursuant to the Federal Alcohol Administration Act (27 CFR Part 3), distillers may sell or dispose of distilled spirits in bulk, that is, containers having a capacity in excess of 1 gallon, (a) to other distillers and proprietors of internal revenue bonded warehouses, industrial alcohol plants and industrial alcohol bonded warehouses (holding permits under the Federal Alcohol Administration Act), including those operating tax-paid bottling houses; (b) to proprietors of Class 8 customs bonded warehouses (imported spirits only); (c) to rectifiers; (d) to winemakers (brandy or alcohol) for fortification of wine; (e) to any agency of the United States, or of any State or political subdivision thereof; (f) for export; (g) on warehouse receipts, conforming to the regulations issued under the Federal Alcohol Administration Act, for distilled spirits in internal revenue bonded warehouses; and (h) for industrial use, as follows: For experimental purposes, and for use in the manufacture (1) of medicinal, pharmaceutical, or antiseptic products, including prescriptions compounded by retail druggists; (2) of toilet products; (3) of flavoring extracts, sirups, or food products; or (4) of scientific, chemical, mechanical, or industrial products; provided such products are unfit for beverage use. Distilled spirits produced at 160° of proof or more

may, however, upon tax-payment, as provided in §§ 183.481, 183.484, 183.489, 183.493, 183.497 and 183.501, be withdrawn for beverage purposes only. Under the regulations issued pursuant to the Federal Alcohol Administration Act, distillers may not sell in bulk for industrial use other distilled spirits produced under this part, unless such spirits are shipped or delivered directly to the industrial user thereof.

(53 Stat. 333, 335, as amended; 26 U. S. C. 2878, 2883; 49 Stat. 985, as amended; 27 U. S. C. 206)

§ 183.681 *Retail containers.* Except as provided in § 183.680, distillers may sell or dispose of distilled spirits only in containers having a capacity of 1 gallon or less. All such containers having a capacity of one-half pint or more must conform to the requirements of Regulations 13 (26 CFR, Part 175).

(49 Stat. 985, as amended; 27 U. S. C. 206; 53 Stat. 331; 26 U. S. C. 2871)

SUBPART FF—SPECIAL (OCCUPATIONAL) TAXES

§ 183.685 *Wholesale and retail liquor dealer.* Except as provided in § 183.687, distillers must, in order to sell distilled spirits, file returns on Form 11, and pay special (occupational) taxes as wholesale liquor dealers or retail liquor dealers, or both, as the case may be, in accordance with the law and Regulations 20 (26 CFR, Part 194).

(53 Stat. 388, as amended, 394; 26 U. S. C. 3250, 3270, 3271, 3272)

§ 183.686 *Warehouse receipts covering distilled spirits.* Since the sale of warehouse receipts for distilled spirits is equivalent to the sale of distilled spirits, every proprietor of a registered distillery who sells, or offers for sale, warehouse receipts for distilled spirits held in registered distilleries or stored in internal revenue bonded warehouses, or elsewhere, incurs liability to special tax as a dealer in liquors at the place where such warehouse receipts are sold or offered for sale, and must file returns and pay occupational tax as provided in § 183.685.

(53 Stat. 388, as amended, 391, 394; 26 U. S. C. 3250, 3254, 3270, 3271, 3272)

§ 183.687 *Exemption of distiller.* No distiller who has given the required bond and who sells only distilled spirits of his own production at the place of manufacture, or at the place of storage in bond, in the original packages to which the tax-paid stamps are affixed, shall be required to pay the special tax of a wholesale dealer in liquors on account of such sales. This provision does not exempt distillers from the payment of special taxes for sales of distilled spirits of their own production in bond (by warehouse receipts or otherwise), or in cases or containers other than the original packages, or for exportation, fortification of wine, use of the United States, etc., without attachment of tax-paid stamps to the original packages, nor does it exempt them from liability for special taxes where distilled spirits produced by other distillers are sold by them.

(53 Stat. 388; 26 U. S. C. 3250)

SUBPART GG—STOREKEEPER-GAUGER'S RECORDS AND REPORTS

§ 183.690 *Form 1686.* The storekeeper-gauger shall keep a daily record of the distillery operations on Form 1686. Entries shall be made as indicated by the headings of the various columns and lines on the form and in accordance with the instructions printed thereon or issued in respect thereto, and as required by this part.

(53 Stat. 333; 26 U. S. C. 2877)

SYSTEM OF FILING

§ 183.691 *Monthly records.* The storekeeper-gauger's monthly records on Form 1686 will be filed in chronological order by months and in bound form as a permanent record in the storekeeper-gauger's office, and kept available for inspection by internal revenue officers.

§ 183.692 *Gauge reports and removal applications.* The storekeeper-gauger's copy of all gauge reports covering distilled spirits removed from the distillery cistern room will be filed in the Government office at the plant in separate files according to type of withdrawal, in chronological order and where spirits are withdrawn in packages, in sequence as to the serial numbers of packages removed. The applications for removal, including those on which the storekeeper-gauger prepares his report of gauge, will be filed separately according to form number, in chronological order. The Forms 1520 covering the entry gauge of spirits deposited in an internal revenue bonded warehouse operated by the distiller on or contiguous to the distillery premises will be filed separately as a permanent record in bound form.

§ 183.693 *Reports covering deposits in warehouse operated by distiller on or contiguous to distillery premises.* The Forms 1520 covering the entry gauge of spirits deposited in an internal revenue bonded warehouse operated by the distiller on or contiguous to the distillery premises will be filed as a permanent record, in bound form, in the storekeeper-gauger's office for the warehouse in a separate file, in chronological order and in sequence to the serial numbers of the packages deposited. Where separate Government offices are maintained for the distillery and the bonded warehouse, the extra copy of Form 1520, provided in accordance with § 183.559, will be filed in the Government office for the distillery in the manner prescribed in § 183.692 for the filing of such forms covering the removal for deposit in an internal revenue bonded warehouse not operated by the distiller on or contiguous to the distillery premises.

SUBPART HH—DISTILLER'S RECORDS AND REPORTS

§ 183.700 *Record of distillery operations, Form 1598.* The distiller shall keep a daily record of the distillery operations on Form 1598. Entries shall be made as indicated by the headings of the various columns and lines on the form and the instructions printed thereon or issued in respect thereto, and as required by this part. Entries shall be made

on the form before the close of the business day next succeeding the day on which the transactions occur, except that summary entries will be made at the close of the month. Where the making of the entries is deferred to the next business day, as authorized herein, appropriate memoranda shall be maintained for the purpose of making the entries correctly. Form 1598 must be verified under oath (or affirmation) by the distiller or his authorized agent at the distillery: *Provided*, That if the form officially prescribed for such report contains therein a provision for verification by a written declaration that such report is made under penalties of perjury, such report shall be verified by the execution of such declaration, and such declaration so executed shall be in lieu of the oath required herein for verification. Form 1598 will be disposed of in accordance with § 183.701.

(53 Stat. 321, 322, 328, 373; 26 U. S. C. 2841, 2844, 2859, 3171); (63 Stat. 687; 26 U. S. C. 3809)

§ 183.701 *Monthly report.* The distiller will deliver Form 1598, in triplicate, to the storekeeper-gauger on or before the 5th day of the month succeeding that for which the report is rendered. The storekeeper-gauger will examine the report, execute the certificate of the Government officer on all three copies of the form, return one copy to the proprietor, and forward two copies to the district supervisor. The proprietor will file Form 1598 at the distillery in chronological order by months and in bound form as a permanent record subject to inspection by Government officers. The district supervisor will, after audit of the report, and not later than the last day of the month succeeding that for which the report is rendered, forward one copy to the Commissioner, and retain the remaining copy.

(53 Stat. 322, 373, as amended; 26 U. S. C. 2844, 3170)

§ 183.702 *Execution of report.* The report must be signed in the same manner as the distiller's notice, Form 27-A, except that in the case of a corporation the affixing of the corporate seal will not be required. Where the reports are signed by an agent, proper power of attorney authorizing the agent to execute the reports for the distiller must be filed, in duplicate, with the district supervisor, who will forward one copy to the Commissioner.

(53 Stat. 322; 26 U. S. C. 2844)

§ 183.703 *Record of removal of bulk spirits, Form 1598.* Every proprietor of a registered distillery shall keep a daily record on Form 1598 of all bulk distilled spirits shipped from the distillery, including impure distillates removed from the distillery premises for denaturation. Entries shall be made as indicated by the headings of the various columns and lines and in accordance with the instructions printed on the form.

(53 Stat. 328; 26 U. S. C. 2859)

§ 183.704 *Record of sales at tax-paid premises, Form 52E.* Every proprietor of a distillery who maintains tax-paid premises at which tax-paid distilled spir-

its are received, stored, and sold in bulk, shall keep form 52E, of all spirits, both bulk and bottled, received and disposed of at his tax-paid premises: *Provided*, That if such proprietor so desires, he may keep Form 52E for bulk spirits only, and Record 52, for bottled spirits only. Where only bottled spirits are received, stored, and sold at such tax-paid premises, the proprietor shall keep Record 52 of all such spirits received and disposed of at his tax-paid premises. By tax-paid premises is meant the "tax-paid" or "free" warehouse or room maintained in conjunction with the distillery or premises maintained at other locations for the receipt, storage, and disposition of tax-paid spirits. Separate records must be kept at each of such premises.

(53 Stat. 327, as amended; 26 U. S. C. 2857)

§ 183.705 *Record of warehouse receipts to be kept by distiller.* Every proprietor of a registered distillery who sells, or offers for sale, distilled spirits by warehouse receipts shall keep a separate record, and render a monthly transcript, of all purchases and sales of warehouse receipts, on Form 52F. There need not be entered on Form 52F transactions in warehouse receipts not involving the purchase or sale of distilled spirits, such as the receipt from a warehouseman of warehouse receipts covering the deposit or bottling of spirits in his warehouse or the surrender of warehouse receipts for the bottling of the spirits in bond or their transfer in bond to another warehouse. Entries on Form 52F shall be made as indicated by the headings of the columns and lines of the form and in accordance with the instructions printed thereon or issued in respect thereto, and as required by this part. The provisions of § 183.707 with respect to the time of making entries, and of § 183.712 with respect to forms to be provided by users, are hereby made applicable to Form 52F. The provisions of § 183.708 with respect to a separate record of serial numbers of cases are hereby made applicable to Form 52F with respect to serial numbers of packages and cases purchased or sold by warehouse receipts. The monthly transcript on Form 52F shall be forwarded to the district supervisor on or before the tenth day of the succeeding month. The physical removal of distilled spirits from the registered distillery shall continue to be reported on Form 1598 in accordance with the provisions of § 183.703. The physical receipt and disposition of distilled spirits at tax-paid premises shall continue to be reported on Form 52E or Record 52, as the case may be, in accordance with the provisions of § 183.704.

(53 Stat. 327, as amended, 328, 391; 26 U. S. C. 2857, 2859, 3254)

§ 183.706 *Place where Forms 52F shall be kept.* Every distiller shall keep Form 52F at the place of business where warehouse receipts are sold or offered for sale.

(53 Stat. 327, as amended, 328, 391; 26 U. S. C. 2857, 2859, 3254)

§ 183.707 *Time of making entries.* Daily entries shall be made on Record 52 and Form 52E, as indicated by the headings of the various columns and in accordance with the instructions on the

forms before the close of the business day next succeeding the day on which the transactions occur. Where the proprietor of a taxpaid premises defers the making of the entries to the next business day, as authorized herein, he shall maintain a separate record, such as invoices, of the removals of distilled spirits, showing the removal data required to be entered on Record 52 or Form 52E, and appropriate memoranda of other transactions required to be entered on such records, for the purpose of making the entries correctly.

(53 Stat. 327, as amended; 26 U. S. C. 2857)

§ 183.708 *Separate record of serial numbers of cases.* Serial numbers of cases of distilled spirits disposed of need not be entered on Record 52 or Form 52E, provided the proprietor keeps in his place of business a separate record, approved by the district supervisor, showing such serial numbers, with necessary identifying data, including the date of removal and the name and address of the consignee. Such separate record may be kept in book form (including loose-leaf books) or may consist of commercial papers, such as invoices or bills. Such books, invoices, and bills shall be preserved for a period of four years and in such a manner that the required information may be ascertained readily therefrom, and during such period shall be available during business hours for inspection and the taking of abstracts therefrom by revenue officers. Entries shall be made on such separate approved record before the close of the business day next succeeding the day on which the transactions occur. Where the making of the entries is deferred to the next business day, as authorized herein, appropriate memoranda shall be maintained for the purpose of making the entries correctly. The proprietor whose separate record has been approved by the district supervisor shall make a notation in the column for reporting serial numbers, as follows: "Serial numbers shown on commercial records per authority dated _____"

(53 Stat. 327, as amended; 26 U. S. C. 2857)

§ 183.709 *Reports.* Except as otherwise provided in this section, the proprietor shall file, daily, full and complete transcripts of Record 52 and Form 52E (Parts 1 and 2) on Forms 52A, 52B, and 52E (Parts 1 and 2) with the district supervisor, by delivering or mailing them to such officer on the date the transactions entered therein occurred: *Provided*, That in any case in which the district supervisor shall direct, the transcripts shall be so filed with the investigator in charge instead of with the district supervisor. The transcripts shall bear the following certification signed by the person or officer authorized to execute Form 338 or 52E:

I hereby certify that these transcripts, consisting of _____ pages, disclose all the transactions which occurred during the period covered thereby, and that each entry is correct.

If in any case the district supervisor shall so authorize, the transcripts, in lieu of being filed daily, may be filed with him on or before the 10th day of the

month succeeding the month in which the transactions in distilled spirits occurred. In such event, transactions will be entered on Record 52 and Form 52E in accordance with the provisions of section 183.707. Monthly summary reports on Form 338 (where Record 52 is kept) and Form 52E (Part 3) shall be prepared in duplicate, one copy of which will be retained on file and the original forwarded to the district supervisor on or before the 10th day of the month succeeding the month in which the transactions in distilled spirits occurred. Records kept on Record 52 and Form 52E shall be preserved for a period of four years, and during such period shall be available during business hours for inspection and the taking of abstracts therefrom by the Commissioner or any internal revenue officer.

(53 Stat. 327, as amended, 328; 26 U. S. C. 2857, 2859)

§ 183.710 *Payment of tax, bottling charge, etc., by third party.* The proprietor of a registered distillery shall report, on Form 1598, Part 2, when Record 52 is kept, on Part 2 and on transcript, Form 52 B, and when Form 52E is kept, on Part 2, the name and address of each consignee, in the column now designated "Name." In the column now designated "Address," there will be reported the name and address of the person, firm or corporation paying (by advancement or reimbursement) either tax, bottling charge, brokerage fee, handling charge, or clearance fee, indicating which are included. The heading of both columns will be amended accordingly.

(53 Stat. 328, 373; 26 U. S. C. 2859, 3171)

§ 183.711 *Order by third party to ship or deliver distilled spirits.* Where the proprietor of a registered distillery ships or delivers distilled spirits to a consignee on the order of another wholesale liquor dealer, detailed records of the transactions shall be kept (a) on Form 1598, Part 2 by the proprietor of the registered distillery making the shipment or delivery, (b) on Record 52 by the wholesale liquor dealer giving the order, and (c) on Record 52 by the consignee if he is a wholesale liquor dealer. For example, assuming that the proprietor of registered distillery (A) ships or delivers the distilled spirits to consignee (C) on the order of wholesale dealer (B), entries will be made on the prescribed forms as follows:

(a) The proprietor of the registered distillery (A) will show in his Form 1598, Part 2, the name and address of wholesale dealer (B) who ordered the distilled spirits, as well as the name and address of consignee (C), the person to whom the distilled spirits are actually shipped or delivered;

(b) Wholesale dealer (B) will show in his Record 52 that the distilled spirits were purchased from distiller (A), giving both the name and address of (A), and will at the same time make an entry showing that the distilled spirits were shipped or delivered by (A) to consignee (C) giving the name and address of (C); and

(c) Consignee (C), if a wholesale liquor dealer, will show in his Record 52

that the distilled spirits were purchased from wholesale dealer (B) and received by him from the proprietor of registered distillery (A), giving name and address of both. A copy of Form 1598 and transcripts of Record 52 on Forms 52A and 52B, required to be filed with the district supervisor, will similarly show the details of such transactions.

Where the proprietor of a registered distillery keeps Record 52, or Form 52E, and is a party to third party transactions similar to those described herein, he shall make similar entries of such transactions in Record 52, on Form 52E, as the case may be; and the transcripts on Forms 52A and 52B, or 52E, respectively, required to be filed with the district supervisor, will likewise show the details of the transactions.

(53 Stat. 328, 373; 26 U. S. C. 2859, 3171)

§ 183.712 *Forms to be provided by users.* Record 52 and Forms 52A, 52B, 52E, 52F, and 338 will be provided by users at their own expense but must be in the form prescribed by the Commissioner. *Provided*, That with the approval of the Commissioner they may be modified to adapt their use to tabulating or other mechanical equipment: *Provided further*, That where the form is printed in book form, including loose-leaf books, the instructions may be printed on the cover or the flyleaf of the book, instead of on the individual form.

§ 183.713 *Verification of reports.* Reports on Forms 52E, 52F and 338 must be filed in accordance with the instructions printed on the forms and be sworn to before an officer authorized to administer oaths: *Provided*, That if the form officially prescribed for any such report contains therein a provision for verification by a written declaration that the report is made under penalties of perjury, such report shall be verified by the execution of such declaration and such declaration as executed shall be in lieu of the oath required herein for verification.

(53 Stat. 667; 26 U. S. C. 3809)

SUBPART II—GENERAL PROVISIONS RELATING TO DISTILLERIES

§ 183.720 *Production of mash, wort, or wash.* No mash, wort, or wash fit for distillation or for the production of spirits or alcohol shall be made or fermented in any building or on any premises other than a distillery or industrial alcohol plant duly authorized according to law, except for the manufacture of fermented liquors or for the manufacture of vinegar.

(53 Stat. 319; 26 U. S. C. 2834)

§ 183.721 *Sale or removal of mash, wort, or wash; distillation.* No mash, wort, or wash made and fermented in any distillery or industrial alcohol plant shall be sold or removed therefrom before being distilled; and no person other than an authorized distiller or proprietor of an industrial alcohol plant shall by distillation or by any other process separate the alcoholic spirits from any fermented mash, wort, or wash, except for the manufacture of vinegar.

(53 Stat. 319; 26 U. S. C. 2834)

§ 183.722 *Operations in officer's absence.* No distiller or person employed at any distillery shall use or cause or permit to be used any material for the purpose of making mash, wort, or beer, or for the production of spirits in the absence of the storekeeper-gauger, or person designated to act as storekeeper-gauger, nor shall any spirits be removed from the distillery in the absence of the storekeeper-gauger.

(53 Stat. 320; 26 U. S. C. 2838)

§ 183.723 *Operations on Sunday.* Under the law, no malt, grain, or other material may be mashed, nor may any mash, wort, or beer be brewed or made, nor may any still be used by a distiller, at any time between 11:00 p. m. of any Saturday and 1:00 a. m. of the next succeeding Monday.

(53 Stat. 320; 26 U. S. C. 2836)

§ 183.724 *Removal of spirits at night.* Under the law, no person may remove any distilled spirits at any other time than after sunrise and before sunset in any cask or package containing more than 10 gallons from any premises or building in which the same may have been distilled, redistilled, rectified, compounded, manufactured, or stored. This provision does not forbid the removal from the distillery, under the supervision of the storekeeper-gauger, of distilled spirits by pipe line after sunset to an internal revenue bonded warehouse, or denaturing bonded warehouse, located on the distillery premises.

(53 Stat. 331; 26 U. S. C. 2870)

§ 183.725 *Use of distillery premises.* Except as otherwise provided in this part, the distillery premises must be used exclusively for the purpose of distilling.

(53 Stat. 314; 26 U. S. C. 2819)

SUBPART JJ—MANUFACTURE, TAX-PAYMENT, REMOVAL AND REGISTRATION OF STILLS AND WORMS

§ 183.730 *General.* Whenever distillers manufacture or reconstruct stills or worms, or set up, sell, or remove stills or distilling apparatus, they must comply with Regulations 23 (26 CFR Part 181), governing the payment of special and commodity taxes, the securing of permits before setting up or removing stills and distilling apparatus, and the registration of stills and distilling apparatus set up.

SUBPART KK—LOCKS AND SEALS

§ 183.735 *Furnished by Government.* Except as otherwise provided in this part, the Commissioner will furnish at the expense of the United States all Government locks and seals required to be used at distilleries. District supervisors will see that the distilleries in their respective districts are fully equipped with locks in good condition and that the necessary seals are provided for seal locks.

(53 Stat. 314; 26 U. S. C. 2820)

§ 183.736 *Where locks are required.* Government locks are required upon all necessary openings in the distillery apparatus by which access may be had to spirits in the process of manufacture from the first still in which the vapors

rise until the finished spirits are deposited in the receiving cisterns; upon all doors in the cistern room; upon the control valves in pipe lines which convey steam or fuel to the stills or which convey spirits to contiguous premises; and otherwise as specifically provided by this part or where deemed necessary by the district supervisor.

(53 Stat. 314; 26 U. S. C. 2820)

§ 183.737 *Seal locks.* Seal locks will be used on the entrance door of the cistern room and the entrance door of the temporary storage room therein (if any); on the door of the Government cabinet; and on such other places where the use of seal locks is required by this part or deemed necessary by the district supervisor. Where spirits are retained overnight in the still-house, and an officer is not assigned to night duty at the distillery, seal locks will be used on the manheads of the tanks in which the spirits are so retained, and on any outlets of such tanks leading to the stills, unless the spirits are retained in the wine room, rectifying room, or other room and the entrance door of such room is secured with a seal lock.

§ 183.738 *Plain locks.* Plain locks will be used at all other places in the distillery where locks are required by this part.

§ 183.739 *Cap seals.* All unions, flanges, and other pipe connections in the distillery equipment not secured by welding or brazing or similar methods, must be securely connected and sealed with seals approved by the Commissioner. A special type of seal, serially numbered, has been approved for use in sealing unions, flanges, and other detachable pipe connections. This seal has, for the purpose of identification, been designated a "Cap" seal.

§ 183.740 *Affixing cap seals.* Cap seals must be affixed in such a manner as to prevent disconnection of the equipment without detection. No. 16-gauge copper wire will be used in applying these seals, unless the use of a different gauge of such wire is authorized by the Commissioner. The seals must be used in serial order, beginning with the lowest number. When applied initially, they will follow in consecutive order the flow of the spirits.

§ 183.741 *Custody of keys, seals and locks.* The storekeeper-gauger will keep the keys to Government locks, in use under his charge, the seals for such locks and cap seals in his custody at all times and will not permit them at any time to go into the possession of the distiller or any other person except the district supervisor or another Government officer authorized to receive them. Seals for locks and cap seals furnished storekeeper-gaugers for use at distilleries must be kept by them in the Government cabinet. Under no circumstances will storekeeper-gaugers permit locks to remain open.

(53 Stat. 314, 373, as amended; 26 U. S. C. 2820, 3170)

§ 183.742 *Breaking of sealed connections forbidden.* Sealed connections

must not be broken by the distiller for any reason, except in cases of emergency and then only after notifying the storekeeper-gauger in charge or the district supervisor. Where the distiller desires to make changes in the equipment involving the breaking of a sealed connection, he will follow the procedure prescribed in § 183.257.

(53 Stat. 315, 325; 26 U. S. C. 2821, 2822, 2851)

§ 183.743 *Removal of cap seals.* Except as provided in § 183.742, cap seals which have been affixed may be removed only by a storekeeper-gauger or some other officer designated for the purpose by the district supervisor. The officer will destroy all removed cap seals in a manner sufficient to prevent their reuse.

(53 Stat. 315, 325; 26 U. S. C. 2821, 2822, 2851)

SUBPART LL—OFFICER'S RIGHT OF ENTRY AND EXAMINATION

§ 183.750 *Entry of distillery or premises used in connection therewith.* Under the law, any internal revenue officer may at all times, as well by night as by day, enter any distillery or building or place used for the business of distilling, or used in connection therewith for storage or other purposes, and, if not admitted upon demand, having declared his name and office, he may break open any doors or windows or break through any of the walls of such premises necessary to be broken to enable him to enter.

(53 Stat. 317; 26 U. S. C. 2827)

§ 183.751 *Authority to break up grounds or walls.* Under the law, any internal revenue officer, and any persons acting in his aid, may break up the ground on any part of the distillery or premises of a distiller, or any ground adjoining or near any such distillery or premises, or any wall or partition thereof, or belonging thereto, or other place, to search for any pipe, cock, private conveyance, or utensil, and upon finding any pipe or conveyance leading from or to the distillery premises to break up any ground, house, wall, or other place through or into which such pipe or conveyance leads, and to break or cut away such pipe or other conveyance.

(53 Stat. 318; 26 U. S. C. 2830)

§ 183.752 *Examination of worm tubs.* Under the law, any internal revenue officer may require the water in any worm tub to be drawn off and the tub and worm cleansed at any time when the still is not at work, and the water must be kept out of the worm tub for two hours or until the officer has finished his examination.

(53 Stat. 321; 26 U. S. C. 2839)

§ 183.753 *Distillers to furnish assistance.* Under the law, on demand of any internal revenue officer, every distiller shall furnish convenient ladders to enable the officer to examine any vessel or utensil in his distillery, and shall furnish all assistance, lights, tools, or other things necessary for inspecting the premises and apparatus, and shall open all doors, boxes, packages, and all casks, barrels, and other vessels not under the

control of the Government officer in charge thereof.

(53 Stat. 317; 26 U. S. C. 2828)

SUBPART MM—RULES FOR COMPUTING CAPACITY OF STILL

§ 183.760 *Pot or kettle stills.* The estimated maximum capacity in proof gallons of distilled spirits capable of being produced every 24 hours, which is required to be shown on the distiller's notice, will be computed as follows: The working capacity of pot or kettle stills will be determined by multiplying 80 percent of the cubic capacity of the still by the maximum number of boilings that can be made in 24 hours and then multiplying this result by the percent of alcohol by volume contained in the highest yielding material to be used in distillation. This result will represent the quantity of wine gallons of absolute alcohol that can be distilled in 24 hours. This quantity, when multiplied by 2, will represent the number of proof gallons. For example, if a pot still having a cubic capacity of 2,000 gallons is used, and such still can be charged three times in eight hours, and the highest percentage of alcohol by volume in the distilling material to be used is 8 percent, the spirit-producing capacity of the still will be computed as follows: $2,000 \times 0.8 \times 9 \times 0.08 \times 2 = 2,304$ proof gallons. (The quantity that can be distilled in 24 hours.)

(53 Stat. 309; 26 U. S. C. 2812)

§ 183.761 *Charge chamber stills.* The estimated maximum capacity in proof gallons of distilled spirits capable of being produced every 24 hours, which is required to be shown on the distiller's notice, will be computed as follows: Where a charge chamber still is used, the estimated maximum quantity of distilled spirits in proof gallons capable of being produced will be determined by multiplying 80 percent of the cubic capacity of the top or charge chamber of the still by the number of times the same can be filled and emptied in 24 hours. This result will represent the total number of gallons of distilling material that can be distilled in 24 hours, which quantity will be multiplied by the percent of alcohol by volume contained in the highest yielding material to be used. The result of such computation will represent the number of wine gallons of absolute alcohol that can be distilled in 24 hours. This quantity, when multiplied by 2, will represent the number of proof gallons. For example, if a charge still is used having a charge chamber of a cubic capacity of 600 gallons which can be charged three times in one hour, and the highest percentage of alcohol by volume in the distilling material to be used is 8 percent, the spirit-producing capacity will be computed as follows: $600 \times 0.8 \times 3 \times 24 \times 0.08 \times 2 = 5,529.6$ proof gallons. (The quantity that can be distilled in 24 hours.)

(53 Stat. 309; 26 U. S. C. 2812)

§ 183.762 *Continuous stills.* The estimated maximum capacity in proof gallons of distilled spirits capable of being produced every 24 hours, which is required to be shown on the distiller's

notice, will be computed as follows: If continuous stills are used, the maximum spirit-producing capacity in proof gallons of such stills will be computed on the area of the column in square feet. The first step will be to determine the inside diameter of the still at its base and the diameter will then be divided by 2 to ascertain the radius. The diameter may be determined (1) by accurately measuring the inside width of the still with a rod or tape, or (2) by measuring the outside circumference of the still and dividing the same by 3.1416 and deducting from the quotient twice the thickness of the sides of the still. The radius (in feet) will be squared and then multiplied by 3.1416 (Pi) to ascertain the area of the column in square feet. The area in square feet will be multiplied by the factor, 40 (the number of gallons of 100 proof spirits that can be distilled in 1 hour per square foot of plate area), and the result will represent the total number of gallons of 100 proof spirits that can be distilled in 1 hour. This quantity will be multiplied by 24 to determine the number of gallons of 100 proof spirits that can be distilled in 1 day. For example, if a continuous still having a diameter of 4 feet is used, the spirit-producing capacity will be computed as follows: $2 \times 2 \times 3.1416 \times 40 \times 24 = 12,063.74$ proof gallons. (The quantity that can be produced in 24 hours.)

(53 Stat. 309; 26 U. S. C. 2812)

3. The purposes of the regulations are as follows:

(a) To conform to Public Law 448—81st Congress (H. R. 5486);

(b) To delegate to district supervisors the authority to approve the establishment of registered distilleries;

(c) To incorporate the regulations relating to the gauging of distilled spirits at registered distilleries, now contained in the Gauging Manual (26 CFR Part 186) but which are being deleted from the current revision of such manual;

(d) To liberalize requirements pertaining to tanks now required to be of uniform dimensions;

(e) To provide for the weighing of spirits transferred by pipe line to a warehouse operated by the distiller on the distillery premises or on premises contiguous thereto, either in the cistern room or in the warehouse;

(f) To simplify the procedure relating to alternating proprietorships and types of plants;

(g) To prescribe in lieu of an oath a declaration, subject to the penalties of perjury, for the following forms;

Form 26, "Registry of Stills"

Forms 52E, "Monthly Record and Report of Importer or Proprietor of Tax-paid Premises"

Form 52F, "Wholesale Liquor Dealer's Monthly Record and Report of Purchases and Sale of Warehouse Receipts for Distilled Spirits"

Form 338, "Wholesale Liquor Dealer's Monthly Report";

(h) To effectuate other changes of a technical nature designed to clarify the present regulatory procedure;

(i) To rearrange the text to conform to the Federal Register Regulations (5 F. R. 1245).

Effective date. The provisions of this part shall be effective September 1, 1950.

[SEAL] GEO. J. SCHOENEMAN,
Commissioner of Internal Revenue.

Approved: August 9, 1950.

THOMAS J. LYNCH,
Acting Secretary of the Treasury.

[F. R. Doc. 50-7036; Filed, Aug. 9, 1950;
4:30 p. m.]

TITLE 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of Foreign and Domestic Commerce, Department of Commerce

Subchapter C—Office of Industry and Commerce

[5th General Revision of Export Regs.,
Amdt. 11]

PART 370—SCOPE OF EXPORT CONTROL BY DEPARTMENT OF COMMERCE

PART 371—GENERAL LICENSES

PART 373—LICENSING POLICIES AND RELATED SPECIAL PROVISIONS

SHIPMENTS ORIGINATING IN JAPAN

1. Section 370.10 *Shipments entering foreign trade zones* is amended to read as follows:

§ 370.10 *Shipments entering foreign trade zones*—(a) *General provisions.* Except for the commodities listed in § 371.9 (c), commodities wholly of foreign origin and for which no customs entry has been made with a collector of customs may be exported from a foreign trade zone without a license from the Department of Commerce.

(b) *Shipments originating in Japan.* Shipments of Positive List commodities (§ 399.1) originating in Japan (excluding the commodities listed in § 371.9 (c)) and moving through the United States may be exported from a foreign trade zone without a license from the Department of Commerce only when exported to the country of ultimate destination named in the bill of lading covering the shipment from Japan or when exported to a country of ultimate destination to which the same commodity could be exported from the United States under general license GO. In every such case, United States collectors of customs shall require production of either an original or true copy of the bill of lading to establish that the shipment is exportable from the foreign trade zone without a license.

2. Section 371.9 *General in-transit license GIT* is amended in the following particulars:

Paragraph (b) *Special provisions for shipments originating in Canada* is amended in the following particulars:

a. The headnote is amended to read as follows: "(b) *Special provisions.*"

b. The first paragraph is designated as subparagraph (1) and a headnote is added to read as follows: "(1) *Shipments originating in Canada.*"

c. A new subparagraph (2) is added thereto to read as follows:

(2) *Shipments originating in Japan.* The provisions of this general license

GIT are not applicable to shipments of Positive List commodities (§ 399.1) originating in Japan and moving in transit through the United States unless the exportation from the United States is to the country of ultimate destination named in the bill of lading covering the shipment from Japan. In every such case, United States collectors of customs shall require production of either an original or true copy of the bill of lading to establish that the shipment is exportable under the provisions of this general license.

Note: Shipments of Positive List commodities which originate in Japan require a validated license for export from the United States unless exportable under the provisions of this general license GIT or of general license GO (See § 373.14.) For exportations of such commodities from foreign trade zones, see § 370.10.

3. Part 373 *Licensing policies and related special provisions* is amended by adding thereto the following section:

§ 373.14 *Special provisions for certain commodities originating in Japan.* Shipments of Positive List commodities (§ 399.1) which originate in Japan and are not exportable from the United States under general in-transit license GIT, or general license GO, or under the provisions of § 370.10, relating to shipments from foreign trade zones, require a validated license for export. Applicants for licenses to export such commodities must disclose, in item 9 (b) of form IT-419, that the commodities originated in Japan; and the application must be accompanied by a true copy of the bill of lading covering the shipment of the commodities from Japan.

This amendment shall become effective as of August 10, 1950.

(63 Stat. 7; E. O. 9630, Sept. 27, 1945, 10 F. R. 12245, 3 CFR, 1945 Supp.; E. O. 9919, Jan. 3, 1948, 13 F. R. 59, 3 CFR, 1948 Supp.)

Issued this 10th day of August 1950.

[SEAL] RAYMOND S. HOOVER,
Issuance Officer.

[F. R. Doc. 50-7083; Filed, Aug. 14, 1950;
8:47 a. m.]

TITLE 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

Subchapter A—General Rules and Regulations

[Corrected S. O. 860, Amdt. 1]

PART 95—CAR SERVICE

SUBSTITUTION OF REFRIGERATOR CARS FOR BOX CARS, TO TRANSPORT FRUIT AND VEGETABLE CONTAINERS AND BOX SHOOKS

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 10th day of August A. D. 1950.

Upon further consideration of Corrected Service Order No. 860 (15 F. R. 5081), and good cause appearing therefor: It is ordered, that:

Section 95.860 *Substitution of refrigerator cars for box cars, to transport fruit and vegetable containers and box shocks*, of Service Order No. 860 be, and it is

hereby further amended by substituting the following paragraph (a) (1) for paragraph (a) (1) thereof:

(a) (1) Except as provided in paragraph (a) (2), common carriers by railroad subject to the Interstate Commerce Act transporting fruit and vegetable containers, box shooks or other packaging or packing materials, in carloads, from origins located in the States of Washington, Oregon or California, to destinations in the State of California and between origin points and destination points wholly within the State of Washington may, at their option, furnish and transport not more than three

(3) refrigerator cars of FGEX, WFEX, BREX, PFEX, SFRD or NP ownership, in lieu of each box car ordered, subject to the carload minimum weight which would have applied if the shipment had been loaded in a box car.

Effective date. This amendment shall become effective at 11:59 p. m., August 10, 1950.

It is further ordered that a copy of this amendment and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the

terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

(Sec. 12, 24 Stat. 383, as amended; 49 U. S. C. 12. Interprets or applies sec. 1, 24 Stat. 379, as amended; 49 U. S. C. 1)

By the Commission, Division 3.

[SEAL]

W. P. BARTEL,
Secretary.

[F. R. Doc. 50-7085; Filed, Aug. 14, 1950; 8:47 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR, Part 920]

[Docket No. AO-221-R01]

HANDLING OF IRISH POTATOES GROWN IN MASSACHUSETTS, RHODE ISLAND, CON- NECTICUT, NEW HAMPSHIRE, AND VER- MONT

NOTICE OF RECOMMENDED DECISION AND OP- PORTUNITY TO FILE WRITTEN EXCEPTIONS WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND ORDER

Pursuant to the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of the recommended decision of the Assistant Administrator, Production and Marketing Administration, United States Department of Agriculture, with respect to a proposed marketing agreement and a proposed marketing order regulating the handling of Irish potatoes grown in the States of Massachusetts, Rhode Island, Connecticut, New Hampshire, and Vermont, to be effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; 61 Stat. 202, 707; 62 Stat. 1247; 63 Stat. 1051), hereinafter called the "act". Interested parties may file exceptions to this recommended decision with the Hearing Clerk, Room 1353 South Building, United States Department of Agriculture, Washington 25, D. C., not later than the close of business on the tenth day after publication of this recommended decision in the FEDERAL REGISTER. Exceptions should be filed in quadruplicate.

Preliminary statement. The public hearing, on the record of which the proposed marketing agreement and the proposed marketing order (hereinafter called the "order") were formulated, opened at West Springfield, Massachusetts, April 17, 1950, pursuant to notice thereof which was published in the

FEDERAL REGISTER (15 F. R. 1809). The hearing was recessed April 20, 1950, and reopened June 20, 1950, following notice of such reopening published in the FEDERAL REGISTER (15 F. R. 3191). The original notice set forth a proposed marketing agreement and order which was submitted to the Secretary of Agriculture by growers and shippers in the States of Massachusetts, Rhode Island, Connecticut, and New Hampshire, as represented by the Potato Advisory Committees of the respective States, with a petition for a hearing thereon. The Fruit and Vegetable Branch, Production and Marketing Administration, U. S. Department of Agriculture, proposed amendments to the aforesaid proposed marketing agreement and order to include the State of Vermont and to establish such State as a district within the proposed production area.

Material issues. The material issues presented on the record of the hearing are as follows:

- (1) The existence of the right to exercise Federal jurisdiction;
- (2) The need for the proposed regulatory program to accomplish the declared objectives of the act;
- (3) The identity of the persons and transactions to be regulated;
- (4) The definition of the commodity and determination of the smallest regional production area to be affected by the proposed regulatory program;
- (5) The specific terms and provisions of the proposed marketing agreement and order necessary and incidental to attain the declared objectives of the act, including, among others, those applicable to:

- (a) The establishment of, maintenance, composition, powers, duties, and operation of the administrative agency;
- (b) The method for limiting shipments of Irish potatoes grown in the production area;
- (c) The establishment of minimum standards of quality and maturity;
- (d) The handling under special regulations, under certain circumstances, and the procedure applicable thereto, of specified shipments of Irish potatoes grown in the production area;

(e) The relaxation of regulations in hardship cases and the procedure applicable thereto; and

(f) The requirement that all handling of Irish potatoes grown in the production area must be in accordance with the provisions of the marketing agreement and order, and that inspection and certification of shipments of such potatoes and the payment of assessments must be accomplished in connection therewith.

Findings and conclusions. The findings and conclusions on the aforesaid material issues, all of which are based on the evidence introduced at the hearing and the record thereof, are as follows:

(1) A substantial percentage of the Irish potatoes grown in the proposed production area normally enters the current of interstate or foreign commerce, and virtually all of the remainder of such potatoes are consumed as table stock potatoes within the State where produced, or are used for so-called diversionary purposes. The market for potatoes grown in the production area is regional in scope and prices for such potatoes at markets both within and outside each of the respective States and the production area are closely related to each other and to f. o. b. shipping point prices within the respective States and the production area. Every movement and sale of such potatoes, whether to a market within or outside the State of production, or the production area, affects the price structure for all potatoes grown in the production area. The mere availability of a surplus of such potatoes in the production area, which could move or be sold to satisfy market demands, tends to decrease the prices in all markets for all potatoes grown in the production area.

Shipments and sales of potatoes grown in any one of the States within the production area may be scheduled originally for delivery to markets within such State, or the production area, respectively, and then be diverted en route to markets outside of the State or the production area. Conversely, such potatoes, destined originally for out-of-State markets, within or outside of the production area, may be diverted en route to markets within the State of origin or to markets within the production

area. The movement and sale of such potatoes to markets within each of the respective States, to markets within and outside the production area are, therefore, inextricably intermingled.

It is concluded, therefore, that (i) all transportation and sale (except retail sales) of Irish potatoes grown in the production area are either in the current of interstate or foreign commerce, or directly burden, obstruct, or affect such interstate or foreign commerce, and (ii) it is impractical to regulate effectively the transportation and sale of such potatoes without regulating all transportation and sale thereof, except to the extent hereinafter indicated.

(2) Effective January 1, 1950, parity prices for Irish potatoes are to be computed in accordance with the provisions of the Agricultural Act of 1948 and the Agricultural Act of 1949.

Seasonal average farm prices in the production area have been below parity during the past four seasons. During the four seasons it has been necessary to make extensive Government purchases throughout the production area to carry out the price support commitment. Purchases representing 20 percent of the crop in the production area were made in supporting prices at 60 percent of parity during the 1949 crop marketing season. Therefore, it is anticipated that seasonal average farm prices received by growers in the production area for potatoes produced in 1950 will not exceed the prescribed parity level.

The availability of supplies of Irish potatoes in excess of all market demand therefor tends to decrease the grower's average returns from all of such potatoes. Withholding the poorer grades, and undesirable qualities and sizes of such potatoes from such markets tends to equalize market supply and the demand therefor, and tends to increase the grower's average returns for all Irish potatoes. Poor grades, undesirable qualities, and undesirable sizes of Irish potatoes available for sale in wholesale markets sell at appreciable discounts from the sale price of the better grades and desirable qualities and sizes of such potatoes, and the former not only displace the latter to a considerable extent, but the former give poor consumer satisfaction, resulting in an over-all decreased consumption of Irish potatoes. Grade, quality, and size discounts in wholesale prices of Irish potatoes are reflected in similar discounts in grower returns therefor. Similarly, decreased consumption of Irish potatoes of all grades, qualities, and sizes, decreases grower returns from such potatoes.

Poorer grades, undesirable qualities, and undesirable sizes of Irish potatoes are frequently marketed in a manner designed to indicate that such potatoes are of desirable grades, qualities, and sizes, which results in consumer dissatisfaction, confusion relevant to Irish potato values, and generally chaotic marketing conditions.

Therefore, it is concluded that a marketing agreement and order is necessary to regulate the transportation and sale of Irish potatoes grown in the production area, to establish and maintain such orderly marketing conditions therefor as

will tend to establish parity prices for such potatoes. The marketing agreement and order should contain provisions for the establishment and maintenance of such minimum standards of quality and maturity and such grading and inspection requirements for Irish potatoes grown in the production area as will effectuate orderly marketing thereof in the public interest, because, even though prices received by farmers for such potatoes exceed parity, some potatoes of poor quality do not, under any circumstances, represent value to the consumers thereof, and the returns to the farmers therefrom are negligible.

(3) (a) The act authorizes the regulation of such handling of Irish potatoes grown in the production area as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects such commerce. (Such handling is hereinafter called "in commerce.") The marketing agreement and order should regulate such handling solely to effectuate the declared policy of the act. It is essential, as a basis for such regulation, that the marketing agreement and order define a "handler," so that persons to be regulated thereunder will have notice thereof.

Common or contract carriers transporting Irish potatoes (grown in the production area and owned by another person) to market are performing a normal handling function in commerce but such handling should not be regulated under the marketing agreement and order for the reason that such carriers are not responsible for the grade, quality, and size of the commodity so transported, are not responsible for the introduction of such commodity in commerce, and their sole interest in such commodity is to transport it to destinations selected by others for a service charge. The responsibility for the grade, quality, and size of the commodity delivered to such common and contract carriers should be borne by the person or persons responsible for delivering such commodity to such carriers.

Other handling functions with respect to such potatoes, which should be regulated under the marketing agreement and order are hereinafter considered in connection with a definition of "ship", and the definition of "handler" should be synonymous with "shipper" because regulation of the handler performing any of such functions is necessary under the marketing agreement and order to effectuate the declared policy of the act. Therefore, the term "handler" or "shipper" should be defined to mean any person (except a common or contract carrier of potatoes owned by another person) who ships potatoes.

(b) Processing activities (such as storing, packing, washing and grading) with respect to Irish potatoes are handling functions in commerce. However, it would be impracticable, if not impossible, to require persons engaged in such activities to meet grade, quality, and size requirements, under regulations issued pursuant to the marketing agreement and order, prior thereto except as hereinafter indicated. Therefore, such handling activities should be exempt from regulation under the marketing agree-

ment and order. Such exemption should be limited to storing, washing, packing, grading, and other preparatory handling functions accomplished in the production area because such activities are customarily accomplished therein. After the grading has been accomplished in connection with such potatoes, the handling activity of transporting them to market should be subject to regulation, under the marketing agreement and order, because the grade, quality, and size of such potatoes are determined by the grading process accomplished prior to such transportation and such transportation in commerce can then be limited, on a practical basis, to such grades, qualities, and sizes of such potatoes as will tend to effectuate the declared policy of the act.

Sales of Irish potatoes, grown in the production area, in commerce are handling transactions which should be subject to regulation under the marketing agreement and order because such sales are generally made on the basis of grades, qualities, and sizes or any combination thereof; and because such sales introduce or continue such potatoes in commerce. Therefore, if such sellers fail to meet the requirements of regulations issued under the marketing agreement and order they should be responsible, except as hereinafter indicated, for such introduction or continuation of the potatoes in commerce. However, if a producer of Irish potatoes, grown in the production area, sells such potatoes to a recognized packer in the production area on a field run or grade-out basis, such sale by the producer does not constitute a handling transaction in commerce. Under such state of facts, the sale from the producer to the recognized packer does not place the potatoes in commerce and the customary contemplation of the parties is that prior to their introduction in commerce. However, if a producer of Irish potatoes is sold for market. It is necessary to restrict the scope of this producer-packer sale to packers operating processing facilities in the production area because such restriction conforms to customary practice therein.

However, if a producer of Irish potatoes, grown in the production area, sells such potatoes grown by him to an itinerant trucker, or any other person, for transportation to market without prior processing, such potatoes are thereby placed in commerce at the time of such sale and the producer, under such circumstances, is the first handler of such potatoes. It may be assumed under such circumstances, that the producer intended that the potatoes would be placed in commerce at the time of such sale and, therefore, he should be held responsible for any failure of the commodity so sold to meet such grade, quality, and size requirements as may be in effect under the marketing agreement and order at the time of such sale.

Irish potatoes grown in the production area and consigned or otherwise placed in commerce should be considered in the same category as potatoes sold in commerce because the former activities are merely different methods of selling potatoes. Such potatoes should also meet the minimum grade, quality, and

size requirements in effect under the marketing agreement and order at the time they are so introduced into commerce to effectuate the declared policy of the act. The consignor or individual otherwise placing such potatoes in commerce should, therefore, be subject to regulation.

Irish potatoes grown in the production area are frequently transported, sold, or otherwise placed or continued in commerce by more than one person. Each of such persons is responsible for introducing or continuing such potatoes in commerce and, therefore, each of such persons should be required to conduct such handling activities in accordance with applicable grade, quality, and size regulations under the marketing agreement and order, to effectuate the declared policy of the act.

It is concluded, therefore, that "ship" should be defined in the marketing agreement and order to include and be applicable to all of the handling functions which must be subject to regulation to effectuate the declared policy of the act, that such definition should be synonymous with "handle," and that "ship" should mean to transport, sell, or in any other way to place potatoes in the current of commerce within the production area, or between the production area and any point outside thereof; *Provided*, That the definition of "ship" or "handle" shall not include or be applicable to the sale or transportation of ungraded potatoes within the production area for storing, or the sale or transportation of potatoes to a recognized dealer or packer within the production area for the purpose of having such potatoes prepared for market.

(4) (a) It is necessary to define the commodity to be regulated by the marketing agreement and order so that persons handling such commodity will know that their handling activities relevant thereto are subject to regulation thereunder. The act authorizes marketing agreements and orders applicable to potatoes, or to any regional or market classification thereof. Irish potatoes of all varieties grown in the production area is a regional classification of potatoes and regulation of the handling thereof will tend to effectuate the declared policy of the act. It is concluded, therefore, that "potatoes" should be defined to mean all varieties of Irish potatoes grown in the production area.

(b) A definition of "production area" is incorporated in the marketing agreement and order to specify and delineate the area in which potatoes must be grown before the handling thereof is subject to regulation. Potatoes are grown commercially in practically all counties within the production area. Production tends to be concentrated, however, in particular counties or portions thereof where soil, climate, topography, type of farming, and other factors are most favorable for potato production. The outstanding example of such concentration to be found within the production area is the Connecticut Valley section traversing western Massachusetts and Connecticut. Other examples are the Washington County and Newport County

sections in Rhode Island. There are, in addition, numerous other localities scattered throughout the production area where commercial potato production exists and where environmental factors are favorable for further development. These areas, although relatively small in comparison with the Connecticut Valley section, in the aggregate comprise an important segment of the potato industry in the production area.

Potatoes from the counties of lesser commercial importance compete, both directly and indirectly, in the markets and influence prices received for potatoes grown in the major producing counties of the production area. Buyers frequently discount the prices paid for "locally grown potatoes" from the production area, in comparison with prices for "shipped-in potatoes," because they cannot rely in many instances on the grades and sizes packed and offered for sale by the local producer. The presence in the markets of off-grade and undesirable sizes of potatoes from sources within the production area also discourages buyers from purchasing and paying premium prices for the better grades and more desirable sizes of potatoes, thus bringing about lower prices generally for potatoes produced in the production area. To correct such undesirable marketing conditions it is necessary to provide for regulation under the marketing agreement and order of all potatoes grown in the production area.

Exclusion of the early producing areas, such as New Haven and Fairfield Counties, Connecticut, and Newport County, Rhode Island, from the production area is not warranted because potatoes from these counties compete in the markets with potatoes from other portions thereof. The combination of an early season and an early maturing variety, Irish Cobbler, enables growers in these counties to begin marketing ahead of growers in most of the other counties within the production area. The Irish Cobbler, however, is grown extensively in other portions of the production area such as Hartford and Tolland Counties, Connecticut, and Hampden, Hampshire, and Franklin Counties, Massachusetts. Later on in the season, Irish Cobblers from these latter counties enter into direct competition with such potatoes from New Haven and Fairfield Counties.

Production, harvesting, and marketing conditions and methods are essentially the same throughout the production area. Such differences in these factors as do exist, for example, in such counties as New Haven and Fairfield in Connecticut, and Newport in Rhode Island, are not of such magnitude as to justify, on the basis of reasons stated herein, the exclusion of any portion of the production area from regulation under the marketing agreement and order.

The marketing agreement and order makes ample provision for meeting the particular problems of administering the program in such areas in an equitable manner. The same or similar varieties of potatoes are grown throughout the production area and potatoes from each part thereof compete in markets both within and outside the area during each

season. Exclusion of any portion of the production area from regulation under the marketing agreement and order would make the operation of such program unreasonably difficult and impractical. Therefore, the production area, hereinafter defined, constitutes the smallest practicable regional production area.

(5) It is necessary to define the terms hereinafter set forth, so that their applicability and meaning may be established and to preclude the necessity for redefining them when they are later used in the marketing agreement and order. The definitions of Secretary, act, person, producer, and varieties, as set forth in the notice of hearing, were not in controversy at the hearing. These terms are generally understood by members of the potato industry in the production area and the use of such terms in the marketing agreement and order is essential as the basic framework thereof.

A definition of "fiscal year" is incorporated in the marketing agreement and order to establish the beginning and end of an operating period. The establishment of such period, which should comprise a full twelve months, is necessary for businesslike administration of the marketing agreement and order and is desirable as a basis for establishing the terms of office of committee members and alternates. The date marking the end of one fiscal year and the beginning of the new should fall at a time of relative inactivity in the marketing of the potato crop and should allow sufficient time for the committee to organize and be prepared to function prior to the start of the new marketing season. Marketing of the potato crop grown in the production area begins about July 1 of each year and is completed prior to June 1 of the following year. June 1 of each year is, therefore, an appropriate date for establishing the end of one fiscal year and the beginning of the new. Fiscal year should be defined, therefore, as hereinafter set forth.

A definition of "committee" is incorporated in the marketing agreement and order to identify the administrative body which acts as agent of the Secretary. Such committee is authorized by the act and the definition thereof, as hereinafter set forth, minimizes the use of words in the marketing agreement and order.

Definitions of "seed potatoes," "table stock potatoes," "consumer pack" and "wholesale pack" are incorporated in the marketing agreement and order because regulation is provided, under certain circumstances, differently for each. Special regulation for seed potatoes is justified because such potatoes are produced for a specialized use and the requirements of the seed market differ, in some respects, from that of the table stock market. For example, potatoes of small size are ordinarily discounted in the table stock market but may bring a premium in the seed market. The term "seed potatoes" should be defined to include such potatoes as are certified, tagged, or otherwise appropriately identified by the official seed certifying agency of the States of Massachusetts, Connecticut, New Hampshire, Rhode

Island and Vermont, or such other seed certifying agency as the Secretary may recognize. Table stock potatoes should be defined as all potatoes other than seed potatoes. The sum total of the table stock and seed potatoes so defined will equal "potatoes," otherwise defined in the marketing agreement and order. Definitions of "wholesale pack" and "consumer pack" are incorporated in the marketing agreement and order because regulation is provided, under certain circumstances, differently for each. The definition of "consumer pack" should include all potato packs which are prepared for ultimate sale by the retailer to the consumer in the original container. The definition of "wholesale pack" should include all potatoes which are normally dumped into bins at the retail store. In practice, the distinction between the two types of packs rests on the capacity of the container. Consumer packs commonly in use in the production area consist of 5, 10, and 15 pound bags, while wholesale packs consist of 50 and 100 pound bags. The demarcation between consumer and wholesale packs should be drawn at a specified weight rather than by naming the individual container which should fall in each category. The possible introduction of containers differing in size from those now in use makes the latter approach impractical. A net weight of 50 pounds of potatoes appears to be an appropriate dividing line between the two types of packs. Consumer pack and wholesale pack should be defined, therefore, as hereinafter set forth.

Definitions of "grade" and "size" are incorporated in the marketing agreement and order to enable all persons affected thereby to determine the requirements thereof and to interpret specifically and intelligently regulations issued in such terms. Grade and size, the essential terms in which regulations may be issued, should be defined as comprehending the equivalents of the meanings assigned to these terms in the official standards for potatoes issued by the United States Department of Agriculture or modification or amendment of such standards. Regulations under the marketing agreement and order can then use such terms (grade and size) with the constant meaning assigned thereto in such standards, or such modification or amendment of such terms as may be effected through amendment of such standards, or such variation of such terms as may be required at the time of regulation and spelled out in the regulation. Official inspectors are qualified to certify to the grade and size of potatoes, grown in the proposed production area, in terms of any one of the aforesaid standards, or modification, amendment, or variation thereof. The provision set forth in the notice of hearing for defining grade and size in terms of standards for potatoes issued by the State from which the potatoes are shipped is unnecessary and is, therefore, not included in the marketing agreement and order.

A definition of "export" is incorporated in the marketing agreement and order because different regulations thereunder are authorized for export shipments than for domestic shipments. Ex-

port markets have certain requirements which differ from the domestic market and special regulations are, therefore, justified. Export should be defined to include all shipments of potatoes outside of the continental United States.

A definition of "district" is incorporated in the marketing agreement and order to delineate the geographical divisions of the production area for the purpose of electing nominees for membership on the committee. The production and marketing problems within each of the established districts are similar and election of committee nominees on such basis will afford equitable representation to all producers in the production area. District should be defined, therefore, as hereinafter set forth.

(a) The marketing agreement and order should provide for the selection by the Secretary of an administrative committee, called the New England Potato Committee, composed of fifteen producer members. Establishment of this committee is desirable and necessary to aid the Secretary in carrying out the declared policy of the act and such committee is authorized by the act. The notice of hearing provided for a committee of 20 members, of whom at least 15 members should be producers and not more than five members should be handlers. Inasmuch as most producers within the proposed production area also perform handler functions and are familiar with marketing conditions for potatoes, no useful purpose would be served by providing for handler representation, as distinct from producer representation, on the committee. Provision should be made for an alternate for each member of the committee because circumstances may arise when it is impossible for a member, or members, to attend particular meetings of the committee and where positions are vacant because of death, resignation, or for other reasons. In such situations it is necessary and desirable for the respective alternate to act in lieu of the member, so that there will be no interruption of committee operations and to assure that committee activities will be representative of the thinking of all segments of the potato industry in all districts of the production area. Such alternates should have the same qualifications as the members if the alternates are to represent the same industry interests as such members. A committee of fifteen members will be sufficiently small to permit it to operate in an efficient manner and at the same time, on the basis of the division of the production area into districts and representation therefrom, will be of sufficient size to give adequate representation to all producers and handlers in the production area.

Members, and their respective alternates, selected to represent a district should be producers (or officers or employees of corporate producers), in such district, and residents therein. Persons with such qualifications will be intimately acquainted with the particular problems of producing and marketing potatoes grown in such district and for that reason can be expected to present accurately the views, problems, and economic conditions of producers and han-

dlers in such districts with respect to committee actions.

A nomination procedure is provided in the marketing agreement and order to assure the Secretary that the names of appropriate prospective members and alternates will be brought to his attention. The nomination of prospective members and alternates by producers at meetings in the respective districts is a practical method of providing the Secretary with names of such members and alternates. Such procedure will insure that the Secretary has available a list of nominees whose qualifications have been reviewed by and acted upon by members of the industry.

The Secretary may appropriately select initial committee members and alternates from nominations which may be made by producers, or groups thereof. However, the New England Potato Committee, hereinafter called the "committee", does not come into existence until selection by the Secretary of the initial committee; therefore, the marketing agreement and order should provide for the selection of said initial committee in the absence of nominations.

Nomination meetings for the purpose of nominating succeeding members of the committee and their alternates should be held or caused to be held by the committee sixty days prior to the end of each fiscal year. By holding, or causing to be held, nomination meetings 60 days prior to the end of each fiscal year, the committee would have adequate time to prepare and submit nominee lists to the Secretary in time for the Secretary to select the members and alternates to take office at the beginning of the new fiscal year, and, in the event a selectee declines to serve, for the Secretary to make another appointment.

At least two nominees should be designated for each position as member, and each position as alternate member, so that the Secretary will have a choice in making his selection and, in the event a selectee declines to serve, so that he will have the names of other prospective members or alternates from which to make another appointment.

Nominee lists should be supplied to the Secretary in the manner and form prescribed by him to establish administrative uniformity in the handling of such matters. Such nominations should be presented to the Secretary at least 30 days prior to the end of the fiscal year so that the selection and qualification of the members and alternates for the new term of office which begins with the new fiscal year may be made prior to such date.

Each producer should be limited to one vote on behalf of himself, his agents, subsidiaries, affiliates, or representatives, in designating nominees for producer committee members and alternates regardless of the number of districts in which he produces potatoes. Voting on any other basis would not provide for equitable representation. If a producer could cast more than one vote by reason of operating in more than one district, such producer would have an advantage in selecting nominees over producers operating in only one district. Likewise, if more than one vote was permitted, a

few large producers could dominate the elections and nominate producers not favored by a majority of producers. The producer who operates in more than one district should be permitted to elect, from among the districts in which he produces potatoes, the district in which he shall vote in order that he may cast his ballot for nominees for producer committee members and alternates where he believes his main interest lies. The one-vote limitation applies to any one producer position to be filled at a nomination meeting. Each producer is allowed one vote for each such producer position as a committee member and each such producer position as a committee alternate to be filled at a nomination meeting.

In order that there will be an administrative agency in existence at all times to administer the marketing agreement and order, the Secretary should be allowed to select committee members and alternates without regard to nominations if the committee, for any reason, fails to carry out the nomination procedure prescribed. Such selection, however, should be on the basis of the representation provided in the marketing agreement and order to insure that the entire production area is fairly and adequately represented.

Any person selected by the Secretary as a committee member or alternate should qualify by filing with the Secretary a written acceptance of willingness and intention to serve in such capacity. Each person selected as a committee member or alternate should qualify, so that the Secretary will have a means of determining if he intends to serve. This is sound operating procedure and is necessary and desirable to avoid delays in the composition of the committee. For this same reason, each member and alternate should file his acceptance within a definite time period after receiving notice of his selection. The ten-day period prescribed is reasonable for qualification and will not unduly retard composition of the committee.

Provision is made for the Secretary to fill any committee vacancies in order to maintain continuity of committee operation. The marketing agreement and order provide several alternative procedures which may be followed by the Secretary in making such selections. The administrative flexibility thus prescribed is desirable so that the Secretary will not be forestalled in making such selections and so that he may choose the most practical of the alternative means of obtaining the names of qualified persons to fill such vacancies. The Secretary should have authority to select persons to fill committee vacancies from nominations made at producer meetings. Practical considerations, however, may preclude the holding of special nomination meetings for this purpose. For example, a vacancy might occur during the height of the potato planting or harvesting season when it would be difficult for the committee to secure an adequate and representative attendance at meetings. It is therefore, appropriate that the Secretary should be authorized to make selections to fill vacancies from the nominee list last submitted by the com-

mittee prior to the occurrence of the vacancy.

It is also desirable and necessary that the Secretary should be authorized to fill committee vacancies without regard to nominations if the names of nominees to fill any such vacancy are not made available to the Secretary within thirty days after such vacancy occurs. The Secretary should have recourse to such means of filling vacancies in order to maintain continuity of committee operation and to insure that all portions of the production area are adequately represented in the conduct of committee business.

The term of office of committee members and alternates, except for initial members and alternates, should be for two years. A two-year term is desirable so that members and alternates will have adequate time to familiarize themselves with the operation of the program and thus be in a position to render the most effective service in assisting the Secretary in carrying out the declared policy of the act. A term of two years gives producers adequate opportunity to vote for a change in their representation, while providing for efficient operation of the committee.

Provision is made in the marketing agreement and order for staggered terms of office of committee members and alternates. Under this provision, about one-half of the committee in office at the end of a fiscal year will continue in office through the next fiscal year. The establishment of such staggered terms will promote administration of the program in the most effective and efficient manner. By having staggered terms of office, the new members and alternates constituting about one-half of the committee membership selected to serve at the beginning of each fiscal year will benefit from the guidance of the experienced members who carry over. This provision for the carry over of experienced members will help insure continuity in the policies and procedures relating to the administration of the marketing agreement and order. Such continuity is an essential ingredient in the successful administration of the marketing agreement and order.

To facilitate the establishment of staggered terms of office, the marketing agreement and order provide that the term of office of a majority of the members and alternates of the initial committee shall be one year, and the term of office for the remaining members and alternates shall be two years. Such provision is fair and equitable and will permit the establishment, on a practical basis, of a committee with the members and alternates thereon holding office for staggered terms.

A quorum of the committee should consist of a majority of the committee members, and the same number of concurring votes should be necessary for passing any motion or approving any action of the committee. These requirements are reasonable and are necessary to insure that any action of the committee will be representative of a majority of the committee and that the interests of both producers and handlers will be reflected in committee actions.

Only members present at an assembled meeting of the committee, or alternate members acting for members, should be entitled to vote. This requirement will encourage greater attendance at meetings and will promote fuller discussion of committee actions. Provision is made, however, for meetings of the committee by telephone, telegraph, or other means of communication, to meet practical situations where rapid decision with respect to committee actions is necessary. Such emergency situations occur quite frequently in the marketing of potatoes grown in the production area. Any votes cast at such meetings should be promptly confirmed in writing to provide a record of the action taken.

The apportionment and selection of producer members and alternate members of the committee by districts in the manner set forth in the marketing agreement and order will provide fair and equitable representation of all producers in the production area. The representation provided gives weight, on as fair and reasonable a basis as possible, to the various factors, such as acreage, number of producers, size of district, and variation in producing and marketing conditions, necessary to establish assurance of a fair and equitable representation of all portions of the production area on the committee. Therefore, selection of the members and alternates should be as follows:

Four committee members and alternates from each of Districts Nos. 1 and 3; three members and alternates from District No. 2; and two members and alternates from each of Districts Nos. 4 and 5.

Committee members and alternates should be compensated at a rate not to exceed \$5.00 per day, or portion thereof, and should be reimbursed for expenses necessarily incurred when acting on committee business. Since such members and alternates will be serving in the interest of the potato industry in the production area, they should not be required to bear such expenses as they incur in attending to committee business. Compensation at not to exceed the rate prescribed herein will offset, to some extent, the losses which such members and alternates will sustain through committee service.

The powers of the committee, as set forth in the notice of hearing, should be granted to the committee because such powers are authorized by the act and are essential to the committee in order for it to discharge its responsibilities under the marketing agreement and order.

Each and all of the duties set forth in the notice of hearing should be given to the committee because such duties are necessary and essential to the accomplishment of the declared policy of the act and for the committee to discharge its obligations to the Secretary and for the committee to discharge its obligations to the Secretary. These duties are similar to duties given to other administrative committees under other marketing agreement and order programs.

(b) The declared policy of the act is to establish and maintain such orderly marketing conditions for potatoes, among other commodities, as will tend

to establish parity prices for such potatoes. The regulation of shipments of potatoes by grade, size, or quality, authorized in the marketing agreement and order, provides a means of carrying out such policy.

The procedures which are outlined in the marketing agreement and order for the development and institution of marketing policies relating to grade, size, or quality regulations provide a practical basis for the committee to obtain appropriate and adequate information regarding marketing problems. In turn, members of the industry are also provided an appropriate and adequate means of being informed regarding the policies and regulations the committee recommends and, if issued, the regulations that are effective. The factors which the committee should take into consideration in developing its marketing policy are the ones commonly or usually taken into account by growers and handlers in marketing potatoes.

In order that the Secretary may most effectively carry out his responsibilities in connection with the marketing agreement and order, it is provided that the committee should prepare and submit to the Secretary a report on its proposed policy, or amendments thereto, for the marketing of potatoes during each fiscal year. The initial marketing policy in each fiscal year should be prepared and submitted to the Secretary at the beginning of the fiscal year, to give all interested parties the maximum notice of regulatory possibilities, consistent with affording the committee sufficient time to prepare sound policies. Further provision should be made for the committee to make available the contents of such reports to producers and handlers in the production area.

In making recommendations for regulation, it is provided that the committee shall investigate enumerated relevant factors of supply and demand for potatoes. This requirement is necessary so that the committee will be in the best position to develop sound and practical recommendations for regulation and to advise the Secretary with respect to such supply and demand conditions. The committee will be well qualified to evaluate marketing conditions for potatoes produced in the production area and to recommend specific regulations which will tend to effectuate the declared policy of the act.

The limitation of shipments of the poorer grades, qualities, and less desirable sizes of potatoes grown in the production area will tend to increase the prices of the more desirable grades, qualities, and sizes, and to increase the returns to producers therefrom. Less desirable sizes include not only small potatoes other than seed potatoes but also excessively large potatoes. Such limitation of shipments will also help to improve the long-run demand for and competitive position of potatoes grown in the production area.

It is a necessary and desirable exercise of the authority granted by the act for the committee to recommend and the Secretary to establish grade, size, or quality regulations for any or all portions of the production area, and different

grade, size, or quality regulations for different packs, for different time periods within the shipping season, for different varieties, or any combination of the foregoing. Such administrative flexibility is needed in the marketing agreement and order to effectuate the declared policy of the act through the issuance of appropriate regulations adapted to different and changing circumstances encountered in the marketing of potatoes.

Authority to issue different regulations applicable to different portions of the production area is necessary because a particular portion or portions of such area may have adverse growing conditions which cause an abnormally high percentage of the potatoes grown therein to fall within restricted grades, sizes, or qualities. To meet the administrative problems that would arise from a situation of this kind and to provide fair and equitable regulation of all shipments of potatoes grown in the production area, it would be appropriate to establish a less restrictive regulation applicable to such affected portion or portions of the area.

Supply and demand conditions for potatoes are subject to frequent and substantial changes during the course of a particular marketing season. For this reason, it is absolutely essential that the committee have authority to recommend such different regulations at any time during the season in order to carry out the declared policy of the act.

Different regulations should be authorized for different varieties of potatoes because varieties differ in particular characteristics such as shape and in susceptibility to certain defects. For these reasons, an appropriate grade and size regulation for one variety might not be appropriate for another. Moreover, a new variety may be introduced in the area which should be regulated differently than the varieties now being grown.

It is necessary to provide for different regulations, under appropriate circumstances, for different packs to improve and maintain consumer acceptance for potatoes grown in the production area. Consumer packs of potatoes require different size composition than wholesale packs; authority should be provided, therefore, to establish regulations with respect to minimum or maximum sizes of potatoes, or both, differently for consumer packs than for wholesale packs. Consumer acceptance of potatoes is more adversely affected by inferior grades and undesirable sizes in consumer packs than in wholesale packs. In the case of consumer packs, the consumer accepts the package relatively "sight unseen" and does not have an adequate opportunity to make a selection of individual potatoes. The consumer, however, can make the desired selection from bulk displays made up by dumping the contents of wholesale packs into a bin, as is standard procedure in the retail grocery business. Consumers demand a better and more uniform grade, size, and quality of potatoes in consumer packs than in wholesale packs and failure to maintain such grade, size, and quality in consumer packs will disproportionately decrease the total returns of growers of potatoes in the production area.

The Secretary, upon the recommendation of the committee, or other available

information, should be authorized to modify, suspend, or terminate grade, size, or quality regulations with respect to shipments outside of the normal commercial markets for table stock potatoes. The committee should be well qualified, because of the experience and knowledge of individual members, to recommend such modifications, suspensions, or terminations as will be in the best interests of the potato industry in the production area and which will tend to effectuate the declared policy of the act. Shipments of potatoes to the noncompetitive outlets, hereinafter set forth, which otherwise could not be marketed under the regulations, would tend to increase the total returns of potato growers in the production area.

The nature of the demand for seed potatoes differs from the demand for table stock in that small sizes are preferred for seed, whereas the same sizes are discounted in the table stock market. However, certain characteristics which constitute grade defects in table stock potatoes do not necessarily detract from the value of seed potatoes. It is desirable therefore, in order to promote more orderly marketing conditions for potatoes, to authorize the committee to recommend, and the Secretary to modify, grade, size, or quality regulations with respect to seed potatoes, or to suspend or terminate regulations relating to such seed shipments.

Export outlets, while relatively small, are an important factor in the demand for potatoes grown in the production area. Since certain export markets offer premium prices for certain grades, sizes, or qualities of potatoes which usually sell at a discount in the domestic market, it is desirable that the committee be authorized to recommend, and the Secretary to establish, modifications, suspensions, or terminations of regulations applicable to export shipments. Such shipments to export would tend to increase returns to producers in the production area and result in added increment to the value of the crop, thereby tending to effectuate the declared policy of the act.

Substantial shipments of potatoes to the Federal government have been made in recent years in carrying out price support obligations administered by the Secretary. It is necessary, therefore, to authorize the committee to recommend and the Secretary to modify, suspend, or terminate regulations to facilitate such shipments, which will increase grower returns from potatoes grown in the production area and thereby tend to effectuate the declared policy of the act.

The committee should be authorized to recommend and the Secretary to modify, suspend, or terminate regulations with respect to potatoes shipped for manufacture or conversion into specified products because such shipments, such as glucose, alcohol, etc., reduce the supply of such potatoes available for shipment to the table stock market and, therefore, such shipments tend to increase the total value of the entire crop of potatoes. The committee should be given authority to recommend which shipments should be classed as being for manufacture or for conversion into specified products because committee members are in an

advantageous position to know whether and when such end products constitute outlets that are not competitive with table stock potatoes. It is concluded that the committee should have authority to recommend and the Secretary to specify such products because some products compete on a basis virtually equal to table stock potatoes, and, further, because new end products may be developed from time to time, some of which may, and some of which may not be competitive with table stock potatoes.

The committee should be authorized to recommend that shipments of potatoes for livestock feed, or for other specified purposes, should not be regulated, or to recommend modification or suspension of regulations governing such shipments. Livestock feed provides an outlet for potatoes that is not competitive with the table stock market. When such outlets are available it will tend to promote objectives sought under regulation to exempt shipments for this purpose, from grade, size, and quality regulations. The committee should be authorized to recommend that shipments of potatoes for a particular purpose or type of utilization should not be regulated, or to recommend modification or suspension of regulations with respect to such shipments, when it is found that such shipments are not competitive with table stock shipments in commerce. The Secretary, on the basis of such recommendations, should be authorized to modify, suspend, or terminate regulations with respect thereto, when such action will tend to effectuate the declared policy of the act.

The aforesaid authorizations, for the modification, suspension, or termination of regulations with respect to shipments of potatoes for each enumerated special purpose, should permit the modification, suspension, or termination of one or more regulatory provision and the simultaneous retention of other regulatory provisions, because such shipments may require expenditures of administrative funds to police and they may compete, to some extent, with shipments of potatoes for table stock purposes.

The administrative difficulties of regulating small shipments, under some circumstances, may make it uneconomical, undesirable, and impractical to attempt to do so under the marketing agreement and order. Under such circumstances, which can be readily determined by the committee, regulation of such small shipments would not tend to effectuate the declared policy of the act. It is concluded that the committee should be authorized to recommend, and the Secretary to establish, the minimum quantities which should not be subject to any or all regulations issued under the marketing agreement and order. It is necessary to permit the maintenance of one or more regulatory requirements, while relieving such minimum quantities from other regulatory requirements. It may be desirable, for example, for the inspection requirement to be waived on small shipments but that handlers be required to pay assessments or comply with grade, size, and quality regulations with respect to such shipments. This provision provides authority to arrange

flexible operation of the marketing agreement and order to meet such situations in a practical way. Such authority will promote more orderly marketing and prevent the imposition of undue burdens upon handlers making such small shipments.

The requirement that the Secretary shall notify the committee of any regulations, or of any modifications, suspensions, or terminations of regulations, is appropriate and necessary to enable the committee to be informed of such actions. The committee's obligation to give reasonable notice (which shall be given through newspapers, radio, mail or such combinations thereof as may be deemed desirable by the committee) of orders issued by the Secretary, is appropriate and necessary for proper and efficient administration of the marketing agreement and order.

Authority should be provided for the committee to recommend, and the Secretary to prescribe, adequate safeguards to prevent potatoes, including seed potatoes, which may be exempted as aforesaid, from regulation, from being placed, or continuing, in commerce contrary to the provisions of this program. Such safeguards, among others, may require inspection to provide the committee with an accurate record of the grade, size, and quality of such shipments of potatoes. In order to maintain appropriate identification of such shipments of potatoes, the committee should be authorized to issue Certificates of Privilege to handlers thereof and to require that such handlers obtain such certificates on all such shipments. Certificates of Privilege should be issued in accordance with rules and regulations established by the Secretary, on the basis of committee recommendations, or other available information, so that the issuance of such certificates may be handled in an orderly and efficient manner.

The committee also should be authorized to deny or rescind Certificates of Privilege when such action is necessary to prevent abuse of the privileges conferred thereby. The committee should be authorized to take such rescinding or denial action upon evidence satisfactory to the committee that a handler to whom a Certificate of Privilege has been issued has handled potatoes contrary to the provisions thereof. Action by the committee denying a handler such certificates should be in terms of a specified time period. Handlers affected by the aforesaid rescinding or denial action should have the right of appeal to the committee for reconsideration.

The Secretary should have the right to modify, change, alter, or rescind any safeguards prescribed or any Certificates of Privilege issued by the committee in order that the Secretary may retain all rights necessary to carry out the declared policy of the act. The Secretary should give prompt notice to the committee of any action taken by him in connection therewith and the committee should currently notify all persons affected by the indicated action.

The committee should maintain detailed records relevant to Certificates of Privilege and should submit, when re-

quested to do so, reports thereon to the Secretary to supply pertinent information requisite for him to discharge his duties under the act and the marketing agreement and order.

(c) The committee should be authorized to recommend, and the Secretary to establish, such minimum standards of quality and maturity and such grading and inspection requirements during any and all periods of marketing, when potato prices are above parity, as will be in the public interest. Some potatoes are of such defective quality that they do not give consumer satisfaction at any time because of the great waste and undue amount of time involved in their preparation. The cost of such potatoes to the consumer per edible unit is frequently greater than the cost per edible unit of potatoes of better quality.

The shipment of immature potatoes causes an adverse consumer reaction to potatoes from the production area and tends to demoralize the market for later shipments of mature potatoes. There is a tendency for immature potatoes to deteriorate in transit and to develop undesirable cooking properties. Limitation of shipment of such potatoes would be in the interests of both consumers and of the potato industry in the production area. Continued shipments of low quality and immature potatoes may result in a permanent reduction in demand for potatoes grown in the production area.

(d) Provision is made in the marketing agreement and order for inspection by the Federal-State Inspection Service or such other Inspection Service as the Secretary may designate of all shipments of potatoes grown in the production area, except as hereinafter indicated. In some portions of the production area Federal-State Inspection Service may not be available at all times. Therefore, it is necessary that the Secretary have the power to designate other inspection service in order to efficiently operate the program. Inspection certificates issued by this service are a common and usual means of specifying the grade, size, and quality of potatoes and are generally used and recognized in the production area. Such certificates constitute prima facie evidence of the grade, size, and quality of the commodity to which they apply and they are accepted in court as such evidence. It is necessary to provide the handler, the committee, or any other interested party with a means of determining whether a shipment, or shipments of potatoes complies with the requirements of any particular grade, size, and quality regulation which may be in effect under the marketing agreement and order. Inspection certificates provide such a means. The Inspection Service can provide reasonably prompt inspection at all points for most potato shipments at a reasonable fee, if inspection is requested at a reasonable time prior to the anticipated shipment. Effective regulation of the handling of potatoes grown in the production area requires that the grade, size, and quality of each shipment thereof be authoritatively established. Accordingly, the marketing agreement and order should provide, except as hereinafter indicated,

that no handler shall ship potatoes unless, prior thereto, such shipment was inspected by the aforesaid Service.

A sizeable portion of the potato crop grown in the production area is graded and marketed by the producer in relatively small lot shipments made at infrequent intervals. Some of these small lot shipments may contain other vegetables in so-called mixed load shipments. Most of these small growers own their own grading equipment either power or hand operated. Nearly all of these growers ran their potatoes over the grader before shipment. Some of these small lot shipments are made at regular intervals to supply regular customers while others depend upon the shipper's evaluation of market requirements on the day of shipment. The handler of such small lot shipments is almost always the producer of the potatoes involved. Where the quantity of potatoes involved in such small lot shipments is relatively small, modification, suspension, or termination of the Federal-State inspection requirements with respect thereto should be effected, in appropriate circumstances, on the basis of and for the reasons hereinbefore indicated for so-called minimum quantity or "small shipments."

When the quantity of potatoes contained in a shipment exceeds the aforesaid minimum quantity, the handler of such shipment in nearly all instances can obtain reasonably prompt inspection at a reasonable fee. However, in some instances and under some circumstances, it would require a large inspection force to promptly inspect all loads, thereby greatly increasing the costs to cover a relatively small portion of the shipments. In some instances these conditions could be caused by unusual weather such as snowstorms or blizzards. Immediately after these storms, shipments are above normal at a time when it is difficult for the inspector to travel to outlying points and make all inspections promptly upon request. Also in some instances while one inspector can inspect nearly all of the shipments in a given locality, two inspectors would be required to cover all of the shipments and thereby materially increase the cost of the service. Therefore, it is imperative to provide procedures whereby a waiver of inspection under the aforesaid conditions can be provided.

If a handler-applicant for inspection requests such service at a reasonable time prior to shipment, the inspection service should either perform the inspection within a reasonable time or notify the applicant and the committee that inspection could not be performed within this time limit. The time limits both on application and performance should not be specified in the agreement and order, as it is not possible in all instances and under all conditions to determine the most appropriate time limits. It may be necessary and desirable to specify different time limits for different portions of the marketing season such as early and late potatoes and from season to season. Therefore, the authority in the agreement and order should be sufficiently flexible to permit the committee to recommend reasonable and practical procedures for handling the inspection

waivers. Also, provisions are made to specify adequate safeguards to prevent abuse of this privilege. The committee should be authorized to refuse the issuance of additional waivers when such action is necessary to prevent abuse of the waivers conferred thereby. Action by the committee in denying an inspection waiver should be in terms of a specified time period. Handlers affected by such aforesaid action should have the right of appeal to the committee for reconsideration.

There is substantial evidence in the hearing record that such waiver procedures are necessary and incidental to operation of the agreement for the granting of such waivers will provide methods for minimizing problems in connection with inspection on small lots. The elimination of such nuisances will benefit growers, the committee, and the Secretary in the operation of the agreement and order and promote orderly marketing to a greater extent than would the compulsory inspection of the small lots that may be relieved of this burden. In addition, recommendations with respect to the extent to which such lots will be relieved will be subject to the continuing test of practical operation, so that discretion regarding the extent to which methods should be used will remain in the hands of the committee and of the Secretary.

Copies of inspection certificates issued pursuant to the requirements of the marketing agreement and order should be supplied to the committee promptly, so that it may promptly discharge its administrative responsibilities thereunder. In instances where potatoes previously inspected are regraded, resorted, or in any other way subjected to further preparation for market in the production area, such potatoes should be and are required to be inspected and a copy of the inspection certificate should be furnished to the committee because such further preparation for market destroys the validity of the original inspection certificate as evidence of the grade, size, and quality of the potatoes involved. All of the aforesaid requirements are necessary for proper administration and enforcement of the provisions of the marketing agreement and order.

(e) Certain hazards are incidental to the production of potatoes grown in the production area which are beyond the control or reasonable expectation of the producer of such potatoes. Because of these circumstances and to prevent undue hardship among producers with respect to any regulations which may be issued under the marketing agreement and order, the committee should be authorized to issue exemption certificates to producers to permit each producer to handle or cause to be handled his equitable proportion of all potatoes shipped from the production area if the grade, size, or quality of his potatoes have been adversely affected by conditions beyond his control and by conditions beyond reasonable expectation. In determining such equitable proportion, the committee should be authorized to estimate the average percentage of production which has been

and will be shipped by all producers in the producer's immediate area of production under a given regulation (which will be such equitable proportion). For such purpose, the committee will need a representative sample of the grade, size, and quality composition of the total crop in such area, a part of which, at any given time during the shipping season, may have been harvested and marketed and another part unharvested.

Similar hazards are prevalent in the handling of potatoes grown in the production area and equitable treatment of each handler, under the marketing agreement and order, requires that he be permitted to handle as large a proportion of his storage holdings of ungraded potatoes (acquired during or immediately following the digging season) as the average proportion of ungraded storage holdings handled by all handlers in an applicant-handler's immediate shipping area, if the grade, size, or quality of such applicant's potatoes have been adversely affected by conditions beyond the applicant's control and by conditions beyond reasonable expectation. Restricting the aforesaid exemptions to cases involving conditions beyond the producer's and handler's control, respectively, and to conditions beyond reasonable expectation, is necessary to preclude the granting of such hardship exemptions where the producers and handlers could have avoided the condition responsible for their hardships.

The committee, by reason of its knowledge of the conditions and problems applicable to the production and handling of potatoes grown in the production area and the information which it will have available in each case, will be well qualified to judge each producer's and handler's application in a fair and equitable manner and to fix the quantity of exempted potatoes which each such applicant may handle or cause to be handled.

The provisions contained in the notice of hearing relevant to the procedure to be followed in issuing exemption certificates, in transferring such certificates, in investigating exemption claims, in appealing exemption claim determinations, and in recording and reporting exemption claim determinations to the Secretary, are necessary to the orderly and equitable operation of the marketing agreement and order and they should, therefore, be incorporated in the marketing agreement and order.

Provision should be made for the Secretary to modify, change, alter, or rescind the procedure established for granting of exemptions, and any exemptions granted pursuant to such procedure. This is necessary to guard against inequities in the granting of exemptions and to preclude the issuance of exemption certificates in unjustifiable cases.

(f) The operation of the committee and the marketing agreement and order require funds for the payment of necessary administrative expenses. The committee is the logical agency to recommend what expenses are necessary and appropriate for operation of the program. It is also necessary that assessments be levied on the handlers

to meet such expenses since no other source of funds is authorized under the act for defraying such expenses. The committee should be required, each year, to prepare and submit to the Secretary a budget showing its estimated expenses and a proposed rate of assessment. This is desirable in order that the Secretary will have the best possible information on probable expenses of the committee and the proper rate of assessment to be levied to meet such expenses.

Assessments should be levied against each handler who first ships potatoes, herein called the first handler, to establish an appropriate basis for each handler paying his pro rata share of necessary administrative expenses. Each first handler should pay assessments to the committee, at its request, to preclude multiple assessments in connection with individual shipments of potatoes. Each first handler's pro rata share of such expenses shall be a percentage of such expenses equal to the percentage his total season's first handling of potatoes subject to regulation is of the total season's first handling of potatoes subject to regulation by all first handlers. The Secretary, upon the basis of the committee's recommendation, or other available information, should fix a rate of assessment per given unit of shipment which first handlers must pay as an equitable share of the expenses of administering the program.

The Secretary shall be authorized to increase the rate of assessment which first handlers should pay if he finds, during or after the fiscal year, that the then applicable rate of assessment is insufficient to cover expenses. Such increased rate should apply to all assessable potatoes handled during that fiscal year to preclude inequities among handlers.

Revenues collected through assessments in excess of expenses for any fiscal year should, at the end of such fiscal year, be credited pro rata to each contributing handler's account, or, upon demand, refunded to any handler.

The committee should be authorized to maintain, with the approval of the Secretary, suits in its own name, or in the name of its members, against any handler for collection of such handler's pro rata share of the committee's expenses. Such authority is contained in the act.

The committee should be permitted to make such expenditures during a fiscal year as are authorized and are necessary for effective administration and proper functioning of the marketing agreement and order program, within the limitations of the budget submitted by the committee and approved by the Secretary for such year.

Any committee member or alternate responsible for or having in his custody any of the property, funds, records, or any other possessions of the committee, should be required to transfer it to his successor or to such person as may be designated by the Secretary, and to execute such instruments as may be necessary to effect such transfers. The committee, and such members and alternates, should be required to give an accounting for all committee receipts and disbursements and for all committee

property whenever requested by the Secretary and whenever, in the case of members and alternates, they cease to be such members or alternates. These transfer and accounting requirements represent sound business procedure and are necessary in order that there will be an unbroken succession in committee possessions.

(g) For proper and efficient administration of the marketing agreement and order, the committee needs information on potatoes with respect to supplies, movement, prices, and sundry other relevant factors which are best obtainable from handlers. The committee should be authorized to request, with the approval of the Secretary, and every handler should be required to maintain records of such facts and furnish to the committee upon request, with the approval of the Secretary, such information therefrom as may be required for the committee to exercise its powers and perform its duties under the marketing agreement and order. The committee should be authorized to audit such records to verify reports submitted as aforesaid. The Secretary should retain the right to modify, change, alter, or rescind any requests by the committee for information in order to protect handlers from unreasonable requests for reports.

(h) The provisions of §§ 920.8 through 920.20, as published in the *FEDERAL REGISTER* of March 30, 1950 (15 F. R. 1809), are common to marketing agreements and orders now operating. Each of such sections sets forth certain rights, obligations, privileges, or procedures which are necessary and appropriate for the effective operation of the marketing agreement and order. These provisions are incidental to, and not inconsistent with section 8c (6) and (7) of the act, and are necessary to effectuate the other provisions of the marketing agreement and order and to effectuate the declared policy of the act. The substance of such provisions, therefore, should be included in the marketing agreement and order. With respect to the announcement prior to January 1 that the program will be terminated at the end of the fiscal year, growers and handlers will be afforded sufficient time to plan accordingly for the next production and marketing season.

General findings. Upon the basis of the evidence introduced at such hearing, and the record thereof, it is found that:

(1) The order, as hereinafter set forth, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) Such order regulates the handling of potatoes grown in the production area in the same manner as, and is applicable only to persons in the respective classes of industrial and commercial activity specified in, a proposed marketing agreement upon which a hearing has been held;

(3) The said order is limited in its application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the act; and the issuance of several orders applicable to any subdivision of the production area would not effectively carry out the declared policy of the act;

(4) The said order prescribes, so far as practicable, such different terms, applicable to different parts of the production area, as are necessary to give due recognition to the differences in the production and marketing of potatoes grown in the said area;

(5) All handling of potatoes, as defined in said order, is in the current of interstate or foreign commerce, or directly burdens, obstructs, or affects such commerce.

Rulings on proposed findings and conclusions. Interested parties were allowed until July 5, 1950, to file briefs with respect to findings of facts and conclusions based on evidence introduced at the hearing.

Briefs were filed on behalf of the Connecticut State Farm Bureau Federation and Potato Committees of Fairfield and New Haven Counties in Connecticut. The briefs contained proposed findings of fact, conclusions and argument with respect to the proposals discussed at the hearing, with particular reference to the proposed area of production to be included under the marketing agreement and order. The findings and conclusions suggested and contained in the brief filed on behalf of the aforesaid potato committees of Fairfield and New Haven Counties would exclude these two counties from the proposed area of production. It is argued that the evidence at the hearing discloses that potatoes grown in these two counties do not compete in any serious form or manner with potatoes grown in any other portion or portions of the proposed production area, that marketing conditions for potatoes grown in the two counties are free from the chaotic conditions prevailing in other portions of the production area, and that the operation of a marketing agreement and order in such counties would be administratively impractical and uneconomical.

Potatoes grown in New Haven and Fairfield Counties do compete, directly or indirectly, in the markets with potatoes grown in other portions of the production area. The marketing season for potatoes grown in these counties is normally from July 15 to November 1 of each year and overlaps, for example, with the marketing season for early varieties, such as the Irish Cobbler, grown in the Connecticut Valley area of Massachusetts and Connecticut which is approximately from August 1 to November 1. Even though most of the potatoes grown in the aforesaid counties are sold locally, they displace potatoes that otherwise might be shipped in to supply local needs from other portions of the production area or from areas outside thereof. The sale of off grade and undesirable sizes of potatoes by growers in New Haven and Fairfield Counties depresses prices and creates disorderly marketing in the same manner as does the sale of such potatoes from any other portion or portions of the production area.

Potato production in New Haven and Fairfield Counties is not as highly commercialized as in certain other counties within the production area. The acreage of potatoes per farm is relatively small and marketings are mostly in compara-

tively small lots. A considerable number of producers in these counties, however, carry on large-scale potato farming. These conditions of producing and marketing potatoes in New Haven and Fairfield Counties are similar to those in a number of counties scattered throughout the production area. Inspection in all such counties would be more of a problem than under more highly commercialized operations, particularly if all lots of potatoes shipped therefrom were required to be inspected. Under the flexible provisions of the marketing agreement and order, however, such administrative problems can be met in a practical and equitable manner.

In the brief filed on behalf of the Connecticut State Farm Bureau Federation, it is concluded that a finding should be made, on the basis of the evidence in the hearing record, which would limit the production area to the Connecticut Valley area comprising Hartford and Tolland Counties, Connecticut, and Hampden, Franklin, and Hampshire Counties, Massachusetts. The five-county area described does include the most important single potato section within the production area. It represents, however, less than half of the total potato acreage and production in the production area. Also, the individual potato goals and assigned potato acreages in these counties account for less than half of such assignments made under the price support program in the entire production area. Regulation of shipments of the Connecticut Valley fraction of the production area's potato crop without regulation of the remainder of such potatoes would be impractical and would not carry out the declared policy of the act.

To the extent that such suggested findings and conclusions contained in the briefs are inconsistent with the findings and conclusions contained herein, the request to make such findings or reach such conclusions are denied on the basis of the facts found and stated in connection with the conclusions in the recommended decision.

Recommended marketing agreement and order. The following marketing agreement and order are recommended as the detailed means by which the aforesaid conclusions may be carried out.

DEFINITIONS

§ 920.1 *Secretary.* "Secretary" means the Secretary of Agriculture of the United States or any other officer or employee of the United States Department of Agriculture, who is, or may hereafter be authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

§ 920.2 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended and reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; 61 Stat. 202, 707; 62 Stat. 1247; 63 Stat. 1051).

§ 920.3 *Person.* "Person" means an individual, partnership, corporation, association, or any organized group or business unit.

§ 920.4 *Production area.* "Production area" means all territory included within the States of Massachusetts, Rhode Island, Connecticut, New Hampshire, and Vermont.

§ 920.5 *Potatoes.* "Potatoes" means all varieties of Irish potatoes grown within the aforesaid production area.

§ 920.6 *Handler.* "Handler" is synonymous with shipper and means any person (except a common or contract carrier of potatoes owned by another person) who ships potatoes.

§ 920.7 *Ship.* "Ship" or "handle" means to transport, sell, or in any other way to place potatoes in the current of commerce within the production area or between the production area and any point outside thereof; *Provided*, That the definition of "ship" or "handle" shall not include or be applicable to the sale or transportation of ungraded potatoes within the production area for storing, or to the sale or transportation of potatoes to a recognized dealer or packer within the production area for the purpose of having such potatoes prepared for market.

§ 920.8 *Producer.* "Producer" means any person engaged in the production of potatoes for market.

§ 920.9 *Fiscal year.* "Fiscal year" means the period beginning on June 1 of each year and ending May 31 following.

§ 920.10 *Committee.* "Committee" means the administrative committee, called the New England Potato Committee, established pursuant to § 920.22.

§ 920.11 *District.* "District" means, describes, and refers to each of the geographic divisions of the production area established pursuant to § 920.24.

§ 920.12 *Varieties.* "Varieties" means and includes all classifications or subdivisions of Irish potatoes according to those definitive characteristics now or hereafter recognized by the United States Department of Agriculture.

§ 920.13 *Seed potatoes.* "Seed potatoes" or "seed" means and includes all potatoes officially certified and tagged, marked or otherwise appropriately identified, under supervision of the official seed potato certifying agency of the State where grown, or other seed certification agencies which the Secretary may recognize.

§ 920.14 *Table stock potatoes.* "Table stock potatoes" means and includes all potatoes not included within the definition of "seed potatoes."

§ 920.15 *Wholesale pack.* "Wholesale pack" means a unit of fifty pounds net weight or more of potatoes contained in a bag, crate, or any other type of container.

§ 920.16 *Consumer pack.* "Consumer pack" means a unit of less than fifty pounds net weight of potatoes contained in a bag, crate, or any other type of container.

§ 920.17 *Grade.* "Grade" means any one of the officially established grades of

potatoes, and "size" means any one of the officially established sizes of potatoes, as defined and set forth in:

(a) United States Standards for Potatoes issued by the United States Department of Agriculture (14 F. R. 1955, 2161), or amendments thereto, or modifications thereof, or variations based thereon;

(b) United States Consumer Standards for Potatoes issued by the United States Department of Agriculture (12 F. R. 7281), or amendments thereto, or modifications thereof, or variations based thereon.

§ 920.18 *Export.* "Export" means shipment of potatoes beyond the boundaries of continental United States.

§ 920.19 *Part and subpart.* "Part" means the order regulating the handling of Irish potatoes grown in the States of Massachusetts, Rhode Island, Connecticut, New Hampshire, and Vermont, and all rules, regulations, and supplementary orders issued thereunder, and the aforesaid order shall be a "subpart" of such "part."

COMMITTEE

§ 920.22 *Establishment and membership.* (a) The New England Potato Committee consisting of 15 producer members is hereby established. For each member of the committee there shall be an alternate who shall have the same qualifications as the member.

(b) Each person selected as a committee member or alternate shall be an individual who is a producer (or an officer or an employee of a corporate producer) in and a resident of the district for which selected.

§ 920.23 *Term of office.* The term of office of committee members and alternates shall be for two fiscal years, and until their successors are selected and have qualified; *Provided, however*, That the terms of office of the initial committee shall be determined by the Secretary so that the terms of office of a majority of the initial members and alternates shall be for one fiscal year. Committee members and alternates shall serve during the term of office for which they are selected and have qualified, or during that portion thereof beginning on the date on which they qualify during the term of office.

§ 920.24 *Districts.* For the purpose of determining the basis for selecting committee members, the following districts of the production area are hereby established:

District No. 1: The State of Massachusetts;
District No. 2: The State of Rhode Island;
District No. 3: The State of Connecticut;
District No. 4: The State of New Hampshire; and
District No. 5: The State of Vermont.

§ 920.25 *Selection.* The Secretary shall select four members of the committee, with their respective alternates, from each of Districts Nos. 1 and 3, three members with their respective alternates from District No. 2, and two members with their respective alternates from each of Districts Nos. 4 and 5, which

members and alternates shall represent the respective District from which they are selected.

§ 920.26 Nomination. The Secretary may select the members of the New England Potato Committee, with their respective alternates, from nominations which may be made in the following manner:

(a) Nominations for initial members of the committee and their respective alternates may be submitted by producers, or groups thereof, and such nominations may be by virtue of elections conducted by groups of producers.

(b) In order to provide nominations for succeeding committee members and alternates:

(1) The New England Potato Committee shall hold or cause to be held prior to April 1 of each year, after the effective date hereof, a meeting or meetings of producers in each of the Districts designated in § 920.24;

(2) In arranging for such meetings the committee may, if it deems desirable, utilize the services and facilities of existing organizations and agencies;

(3) At each such meeting at least two nominees shall be designated for each position as member and for each position as alternate member on the committee;

(4) Nominations for committee members and alternate members shall be supplied to the Secretary in such manner and form as he may prescribe, not later than 30 days prior to the end of each fiscal year;

(5) Only producers may participate in designating nominees for committee members and their alternates; and

(6) Regardless of the number of districts in which a person produces potatoes, each such person is entitled to cast only one vote on behalf of himself, his agents, subsidiaries, affiliates, and representatives in designating nominees for committee members and alternates: *Provided*, That in the event a person is engaged in producing potatoes in more than one district, such person shall elect the district within which he may participate as aforesaid in designating nominees: *Provided further*, That an eligible voter's privilege of casting only one vote, as aforesaid, shall be construed to permit a voter to cast one vote for each position to be filled in the respective district in which he elects to vote.

§ 920.27 Failure to nominate. If nominations are not made within the time and in the manner specified in § 920.26, the Secretary may, without regard to nominations, select the committee members and alternates which selection shall be on the basis of the representation provided for in § 920.25.

§ 920.28 Acceptance. Any person selected as a committee member or as an alternate shall qualify by filing a written acceptance with the Secretary within ten days after being notified of such selection.

§ 920.29 Vacancies. To fill any vacancy occasioned by the failure of any person selected as a committee member or as an alternate to qualify, or in the event of the death, removal, resignation,

or disqualification of any qualified member or alternate, a successor for his unexpired term may be selected from nominations made in the manner specified in § 920.26, or the Secretary may select such committee member or alternate from previously unselected nominees on the current nominee list from the district involved. If the names of nominees to fill any such vacancy are not made available to the Secretary within 30 days after such vacancy occurs, such vacancy may be filled without regard to nominations, which selection shall be made on the basis of the representation provided for in § 920.25.

§ 920.30 Alternate members. An alternate member of the committee shall act in the place and stead of the member for whom he is an alternate, during such member's absence. In the event of the death, removal, resignation, or disqualification of a member, his alternate shall act for him until a successor of such member is selected and has qualified.

§ 920.31 Procedure. (a) A majority of the committee members shall be necessary to constitute a quorum and the same number of concurring votes shall be required to pass any motion or approve any committee action.

(b) The committee may provide for meeting by telephone, telegraph, or other means of communication and any vote cast at such a meeting shall be promptly confirmed in writing: *Provided*, That if any assembled meeting is held, all votes shall be cast in person.

§ 920.32 Expenses and compensation. Committee members and their respective alternates shall be reimbursed for expenses necessarily incurred by them in the performance of their duties and in exercise of their powers under this part, and shall receive compensation at a rate to be determined by the committee, which rate shall not exceed \$5.00 for each day, or portion thereof, spent in attending to committee business.

§ 920.33 Powers. The committee shall have the following powers:

(a) To administer the provisions of this part in accordance with its terms;

(b) To make rules and regulations to effectuate the terms and provisions of this part;

(c) To receive, investigate, and report to the Secretary complaints of violation of the provisions of this part; and

(d) To recommend to the Secretary amendments to this part.

§ 920.34 Duties. It shall be the duty of the committee:

(a) At the beginning of each fiscal year, to meet and organize, to select a chairman and such other officers as may be necessary, to select subcommittees of committee members, and to adopt such rules and regulations for the conduct of its business as it may deem advisable;

(b) To act as intermediary between the Secretary and any producer or handler;

(c) To furnish to the Secretary such available information as he may request;

(d) To appoint such employees, agents, and representatives as it may deem necessary and to determine the salaries

and define the duties of each such person;

(e) To investigate from time to time and to assemble data on the growing, harvesting, shipping, and marketing conditions with respect to potatoes, and, upon approval of the Secretary, to engage in such research and service activities which may be necessary and incidental to the operation of the marketing agreement and order;

(f) To keep minutes, books, and records which clearly reflect all of the acts and transactions of the committee and such minutes, books, and records shall be subject to examination at any time by the Secretary or his authorized agent or representative;

(g) To make available to producers and handlers the committee voting record on recommended regulations and on other matters of policy;

(h) At the beginning of each fiscal year, to prepare a budget of its expenses for such fiscal year, together with a report thereon;

(i) To cause the books of the committee to be audited by a competent accountant at least once each fiscal year, and at such other time as the committee may deem necessary or as the Secretary may request. The report of such audit shall show the receipt and expenditure of funds collected pursuant to this part; a copy of each such report shall be furnished to the Secretary and a copy of each such report shall be made available at the principal office of the committee for inspection by producers and handlers; and

(j) To consult, cooperate, and exchange information with other potato marketing committees and other individuals or agencies in connection with all proper committee activities and objectives under this part.

EXPENSES, ASSESSMENTS, AND BUDGETS

§ 920.40 Budget. The committee shall prepare a budget for each fiscal year showing its anticipated expenses and a proposed rate of assessment to cover such expenses. The committee shall also transmit to the Secretary a report accompanying the budget showing the basis for its calculation of expenses and the proposed rate of assessment.

§ 920.41 Expenses. The committee is authorized to incur such expenses as the Secretary, upon the basis of the aforesaid budget and other available information, finds may be necessary during each fiscal year to perform its functions under this part and for such other purposes as may be appropriate pursuant to the provisions of this part.

§ 920.42 Rate of assessment. The funds to cover such expenses shall be acquired by the levying on handlers of assessments which shall be at a rate recommended by the committee and fixed by the Secretary on the basis of such recommendations or other available information. Each handler who first ships potatoes shall pay assessments to the committee upon demand, which assessments shall be such handler's pro rata share of the expenses which will be appropriately incurred by the com-

mittee during each fiscal year. Such handler's share of such expense shall be proportionate to the ratio between the total quantity of potatoes handled by him as the first handler thereof, during the applicable fiscal year, and the total quantity of potatoes handled by all handlers as the first handlers thereof, during the same fiscal year.

§ 920.43 Increasing rate of assessment. Upon recommendation of the committee and upon a later finding relative to the committee's expenses or revenue, the Secretary may increase the rate of assessment to cover expenses which shall be appropriately incurred. Such increase shall be applicable to all potatoes handled during the given fiscal year.

§ 920.44 Accounting. All funds received by the committee pursuant to any provision of this part shall be used solely for the purposes specified in this part and shall be accounted for in the following manner:

(a) The Secretary may at any time require the committee and its members to account for all receipts and disbursements; and

(b) Whenever any person ceases to be a committee member or alternate he shall account for all receipts and disbursements and deliver all property and funds in his hands, together with all books and records in his possession, to his successor in office or to such person as the Secretary may designate, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor or in such designated person the right to all the property, funds, or claims vested in such member or alternate.

§ 920.45 Refunds. (1) If at the end of a fiscal year, it shall appear that assessments collected are in excess of expenses incurred, each handler entitled to a proportionate refund of the excess assessments shall be credited with such refund against the operations of the following fiscal year, unless he demands payment thereof, in which event such proportionate refund shall be paid to him.

§ 920.46 Collection of funds. (a) The committee may, with the approval of the Secretary maintain in its own name or in the name of its members, a suit against any handler for the collection of such handler's pro rata share of the expenses of the committee.

(b) In order to provide funds to carry out the functions of the committee, handlers may make advance payment of assessments.

REGULATION

§ 920.50 Marketing policy preparation. At the beginning of each fiscal year the committee shall consider and prepare a proposed policy for the marketing of potatoes during such fiscal year. In developing its marketing policy the committee shall investigate relevant supply and demand conditions for potatoes. In such investigations the committee shall give appropriate consideration to the following:

(a) Market prices for potatoes, including prices by grade, size, and quality in wholesale or in consumer packs, or any other shipping unit;

(b) Supply of potatoes, by grade, size, and quality, in the production area and in other production areas;

(c) The trend and level of consumer income; and

(d) Other relevant factors.

§ 920.51 Marketing policy reports.

(a) The committee shall submit to the Secretary a report setting forth the aforesaid marketing policy. The committee also shall notify producers and handlers of the contents of such reports.

(b) In the event it becomes advisable to deviate from such marketing policy, because of changed supply and demand conditions, the committee shall formulate a new marketing policy in accordance with the manner previously outlined. The committee also shall submit a report thereon to the Secretary and notify producers and handlers of such revised or amended marketing policy.

§ 920.52 Committee recommendations.

The committee shall recommend regulation to the Secretary whenever it finds that such regulation, as provided in § 920.53 will tend to effectuate the declared policy of the act. The committee also may recommend modification, suspension, or termination of any regulation in order to facilitate shipments of potatoes for the specified purposes set forth in § 920.54.

§ 920.53 Issuance of regulations. The Secretary shall limit the shipment of potatoes whenever he finds from the recommendations and information submitted by the committee, or from other available information that such regulation would tend to effectuate the declared policy of the act. Such limitation may:

(a) Regulate, in any or all portions of the production area, the shipment of particular grades, sizes, or qualities of any or all varieties of potatoes during any period; or

(b) Regulate the shipment of particular grades, sizes, or qualities of potatoes differently for different varieties, for different portions of the production area, for consumer or wholesale packs, or any combination of the foregoing during any period; or

(c) Regulate the shipment of potatoes by establishing in terms of grades, sizes, or both, minimum standards of quality and maturity.

§ 920.54 Modification, suspension, or termination. Upon the basis of the recommendation and information submitted by the committee, the Secretary shall modify, suspend, or terminate regulations issued pursuant to §§ 920.42, 920.43, 920.53, 920.54, or 920.65, or any combination thereof, in order to facilitate shipments of potatoes for the following purposes whenever he finds that it will tend to effectuate the declared policy of the act:

(a) For seed;

(b) For export;

(c) For distribution by the Federal Government;

(d) For manufacture or conversion into specified products;

(e) For livestock feed; and

(f) For other purposes which may be specified.

§ 920.55 Minimum quantity regulation. The committee, with the approval of the Secretary, may establish, for any or all portions of the production area, minimum quantities below which shipments will be free from regulations issued pursuant to §§ 920.42, 920.43, 920.53, 920.54, or 920.65, or any combination thereof.

§ 920.56 Notification of regulation. The Secretary shall notify the committee of any regulations issued or of any modification, suspension, or termination thereof. The committee shall give reasonable notice thereof to handlers.

§ 920.57 Safeguards. (a) The committee, with the approval of the Secretary, may prescribe adequate safeguards to prevent shipments pursuant to § 920.54 from entering channels of trade for other than the specific purpose authorized therefor, and rules governing the issuance and the contents of Certificates of Privilege if such certificates are prescribed as safeguards by the committee. Safeguards, as prescribed in this section, may include requirements that:

(1) Handlers shall file applications with the committee to ship potatoes pursuant to § 920.54;

(2) Handlers shall obtain inspection provided by § 920.65 or pay the pro rata share of expenses provided by § 920.42 or both, in connection with potato shipments effected under the provisions of § 920.54: *Provided*, That such inspection or payment of expenses may be required at different times than otherwise specified by the aforesaid sections; and

(3) Handlers shall obtain Certificates of Privilege from the committee for shipments of potatoes effected or to be effected under the provisions of § 920.54.

(b) The committee may rescind or deny Certificates of Privilege to any shipper if proof is obtained that potatoes shipped by him for the purposes stated in § 920.54 were handled contrary to the requirements applicable thereto.

(c) The Secretary shall have the right to modify, change, alter, or rescind any safeguards prescribed and any certificates issued by the committee pursuant to the provisions of this section.

(d) The committee shall make reports to the Secretary, as requested, showing the number of applications for such certificates, the quantity of potatoes covered by such applications, the number of such applications denied and certificates granted, the quantity of potatoes shipped under duly issued certificates, and such other information as may be requested.

INSPECTION

§ 920.65 Inspection and certification. During any period in which shipments of potatoes are regulated, pursuant to the provisions of §§ 920.42, or 920.53, or both, no handler shall ship potatoes unless, prior thereto, such shipment was inspected by an authorized representative of the Federal-State Inspection Service, or such other inspection service

as the Secretary shall designate. Each handler procuring inspections pursuant to this section, shall make arrangements with the inspecting agency to forward promptly to the committee a copy of the inspection certificate: *Provided*, That the regrading, resorting, repacking, or other further preparation of inspected potatoes for market shall invalidate prior inspection thereon and subsequent shipment of such potatoes after regrading, resorting, repacking, or other preparation for market shall not be effected unless, prior thereto, such shipment is inspected as provided in this section: *Provided further*, That the committee may adopt, subject to the approval of the Secretary, procedures permitting the shipment of potatoes without the required prior inspection thereon; such procedures shall include a requirement that each handler-applicant for a waiver show that he requested shipping point inspection and that the appropriate inspection agency stated that it could not supply reasonably prompt service in connection with such request; and such procedures may require that each applicant agrees, as a condition for the issuance of a waiver, to one or more of the following:

(a) That the potatoes to be shipped under such waiver will be inspected and certified at destination if an inspector is available for such purpose;

(b) That, where inspection indicates that potatoes shipped under a waiver fail to meet minimum grade, size, and quality requirements in effect at the time of such inspection, the potatoes will be removed from all normal domestic commercial channels, except for disposition pursuant to § 920.54; and

(c) That additional waivers will not be granted to an applicant, for the remainder of the fiscal year, if the potatoes shipped under a waiver and failing to meet minimum grade, size, and quality requirements, are not removed from all normal domestic market channels, except for disposition pursuant to § 920.54.

EXEMPTIONS

§ 920.70 *Procedure*. The committee may adopt, with approval of the Secretary, the procedures pursuant to which certificates of exemption will be issued to producers or handlers.

§ 920.71 *Granting exemptions*. (a) The committee shall issue certificates of exemption to any producer who applies for such exemption and furnishes adequate evidence to the committee, that by reason of a regulation issued pursuant to § 920.53 he will be prevented from shipping as large a proportion of his production as the average proportion of production shipped during the entire season, or such portion thereof as may be determined by the committee, by all producers in said applicant's immediate production area and that the grade, size, or quality of the applicant's potatoes have been adversely affected by acts beyond the applicant's control and by acts beyond reasonable expectation. Each certificate shall permit the producer to ship the amount of potatoes specified thereon. Such certificate shall be transferred with such potatoes at time of transportation or sale.

(b) The committee shall issue certificates of exemption to any handler who applies for such exemption and furnishes adequate evidence to the committee that, by reason of a regulation issued pursuant to § 920.53, he will be prevented from shipping, as large a proportion of his storage holdings of potatoes, acquired during or immediately following the digging season, as the average proportion of storage holdings shipped by all handlers in said applicant's immediate shipping area, and that the grade, size, or quality of the applicant's potatoes have been adversely affected by acts beyond the applicant's control and by acts beyond reasonable expectation. Each certificate shall permit the handler to ship the amount of potatoes specified thereon. Such certificate shall be transferred with such potatoes at time of transportation or sale.

(c) The committee shall be permitted at any time to make a thorough investigation of any producer's or handler's claim pertaining to exemptions.

§ 920.72 *Appeal*. If any applicant for exemption certificates is dissatisfied with the determination by the committee with respect to his application, said applicant may file an appeal with the committee. Such an appeal must be taken promptly after the determination by the committee from which the appeal is taken. Any applicant filing an appeal shall furnish evidence satisfactory to the committee for a determination on the appeal. The committee shall thereupon reconsider the application, examine all available evidence, and make a final determination concerning the application. The committee shall notify the appellant of the final determination, and shall furnish the Secretary with a copy of the appeal and a statement of considerations involved in making the final determination.

§ 920.73 *Records, reports, and review of exemptions*. (a) The committee shall maintain a record of all applications submitted for exemption certificates, a record of all exemption certificates issued and denied, the quantity of potatoes covered by such exemption certificates, a record of the amount of potatoes shipped under exemption certificates, a record of appeals for reconsideration of applications, and such information as may be requested by the Secretary. Periodic reports on such records shall be compiled and issued by the committee upon request of the Secretary.

(b) The Secretary shall have the right to modify, change, alter, or rescind any procedure and any exemptions granted pursuant to §§ 920.70, 920.71, 920.72 or any combination thereof.

MISCELLANEOUS PROVISIONS

§ 920.80 *Reports*. Upon the request of the committee, with approval of the Secretary, every handler shall furnish the committee, in such manner and at such time as may be prescribed, such information as will enable the committee to exercise its powers and perform its duties under this part. Handlers shall maintain records from which such reported information can be verified by the committee. The Secretary shall have the right to modify, change, or

rescind any request for reports pursuant to this section.

§ 920.81 *Compliance*. Except as provided in this part, no handler shall ship potatoes, the shipment of which has been prohibited by the Secretary in accordance with provisions of this part, and no handler shall ship potatoes except in conformity to the provisions of this part.

§ 920.82 *Right of the Secretary*. The members of the committee (including successors and alternates), and any agent or employee appointed or employed by the committee, shall be subject to removal or suspension by the Secretary at any time. Each and every order, regulation, decision, determination or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the said committee shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

§ 920.83 *Effective time*. The provisions of this subpart shall become effective at such time as the Secretary may declare and shall continue in force until terminated in one of the ways specified in this subpart.

§ 920.84 *Termination*. (a) The Secretary may, at any time, terminate the provisions of this subpart by giving at least one day's notice by means of a press release or in any other manner which he may determine.

(b) The Secretary may terminate or suspend the operation of any or all of the provisions of this subpart whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(c) The Secretary shall terminate the provisions of this subpart at the end of any fiscal year whenever he finds that such termination is favored by a majority of producers, who during the preceding fiscal year, have been engaged in the production for market of potatoes: *Provided*, That such majority has, during such year, produced for market more than fifty percent of the volume of such potatoes produced for market; but such termination shall be effective only if announced on or before January 1 of the then current fiscal year.

(d) The provisions of this subpart shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

(e) The Secretary shall terminate the provisions of this agreement at the end of any fiscal year, upon the written request of handlers signatory to this agreement who submit evidence satisfactory to the Secretary that they handled not less than sixty-seven percent of the total volume of potatoes handled by the signatory handlers during the preceding fiscal year; but such termination shall be effective only if announced on or before January 1 of the then current fiscal year.¹

§ 920.85 *Proceedings after termination*. (a) Upon the termination of the provisions of this subpart, the then func-

¹ Applicable only to the proposed marketing agreement.

tioning members of the committee shall continue as trustees, for the purpose of liquidating the affairs of the committee, of all the funds and property then in the possession of or under control of the committee, including claims for any funds unpaid or property not delivered at the time of such termination. Action by said trusteeship shall require the concurrence of a majority of the said trustees.

(b) The said trustees shall continue in such capacity until discharged by the Secretary; shall, from time to time, account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and of the trustees, to such person as the Secretary may direct; and shall, upon request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the committee or the trustees pursuant thereto.

(c) Any person to whom funds, property, or claims have been transferred or delivered by the committee or its members, pursuant to this section, shall be subject to the same obligations imposed upon the members of the committee and upon the said trustees.

§ 920.86 *Effect of termination or amendment.* Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant to this subpart, or the issuance of any amendments to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any regulation issued under this subpart, or (b) release or extinguish any violation of this subpart or of any regulations is-

sued under this subpart, or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violations.

§ 920.87 *Duration of immunities.* The benefits, privileges, and immunities conferred upon any person by virtue of this subpart shall cease upon the termination of this subpart, except with respect to acts done under and during the existence of this subpart.

§ 920.88 *Agents.* The Secretary may, by designation in writing, name any person, including any officer or employee of the Government, or name any bureau or division in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this part.

§ 920.89 *Derogation.* Nothing contained in this subpart is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise, or in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 920.90 *Personal liability.* No member or alternate of the committee, nor any employee or agent thereof, shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any handler or to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, agent, or employee, except for acts of dishonesty.

§ 920.91 *Separability.* If any provision of this subpart is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of

this subpart, or the applicability thereof to any other person, circumstance, or thing, shall not be affected thereby.

§ 920.92 *Amendments.* Amendments to this subpart may be proposed, from time to time, by the committee or by the Secretary.

§ 920.93 *Counterparts.* This agreement may be executed in multiple counterparts and when one counterpart is signed by the Secretary, all such counterparts shall constitute when taken together, one and the same instrument as if all signatures were contained in one original.¹

§ 920.94 *Additional parties.* After the effective date of this agreement, any handler who has not previously executed this agreement may become a party to this agreement if a counterpart of this agreement is executed by him and delivered to the Secretary. This agreement shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary, and benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party.¹

§ 920.95 *Order for marketing agreement.* Each signatory handler favors and approves the issuance of an order, by the Secretary, regulating the handling of potatoes in the same manner as is provided for in this agreement; and each signatory handler hereby requests the Secretary to issue, pursuant to the act, such an order.¹

Done at Washington, D. C., this 9th day of August 1950.

[SEAL]

JOHN I. THOMPSON,
Assistant Administrator.

[F. R. Doc. 50-7082; Filed, Aug. 14, 1950;
8:46 a. m.]

NOTICES

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Misc. 13138]

UTAH

ORDER PROVIDING FOR OPENING OF PUBLIC LANDS

AUGUST 8, 1950.

In an exchange of lands made under the provisions of section 8 of the Act of June 28, 1934 (48 Stat. 1269), as amended June 26, 1936 (49 Stat. 1976, 43 U. S. C., sec. 315g), the following described lands have been reconveyed to the United States:

SALT LAKE MERIDIAN

T. 5 S., R. 2 W.,
Sec. 24, $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 25, E $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$.
T. 6 S., R. 1 W.,
Sec. 22, SE $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 26, NW $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 27, NE $\frac{1}{4}$ NE $\frac{1}{4}$.
T. 6 S., R. 7 W.,
Sec. 5,

T. 7 S., R. 3 W.,
Sec. 7, S $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 8, SW $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 18, N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$.
T. 7 S., R. 4 W.,
Sec. 1, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$.
T. 8 S., R. 5 W.,
Sec. 33, NW $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$.
T. 8 S., R. 7 W.,
Sec. 4, S $\frac{1}{2}$.
T. 11 N., R. 18 W.,
Sec. 32, W $\frac{1}{2}$, W $\frac{1}{2}$ E $\frac{1}{2}$.
T. 12 N., R. 6 E.,
Sec. 20, SW $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 21, NE $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 28, NE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 29, W $\frac{1}{2}$ NW $\frac{1}{4}$.
T. 12 N., R. 17 W.,
Sec. 4, SW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 8, NE $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 9, N $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$.
T. 13 N., R. 10 W.,
Sec. 33, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$.
T. 13 N., R. 17 W.,
Sec. 17, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 18, SE $\frac{1}{4}$;
Sec. 19, lot 3, E $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$,
N $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 20, NW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$.
T. 13 N., R. 18 W.,
Sec. 21, W $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 23, NW $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 28, NE $\frac{1}{4}$ NE $\frac{1}{4}$.
T. 14 S., R. 11 E.,
Sec. 20, SE $\frac{1}{4}$ SE $\frac{1}{4}$.
T. 15 S., R. 2 W.,
Sec. 28, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$,
S $\frac{1}{2}$ SE $\frac{1}{4}$.
T. 18 S., R. 8 W.,
Sec. 22, NE $\frac{1}{4}$ NE $\frac{1}{4}$.
T. 18 S., R. 9 W.,
Sec. 33.
T. 19 S., R. 8 W.,
Sec. 31, W $\frac{1}{2}$ SE $\frac{1}{4}$.
T. 20 S., R. 6 W.,
Sec. 4, SE $\frac{1}{4}$ NW $\frac{1}{4}$.
T. 24 S., R. 9 W.,
Sec. 32.
T. 25 S., R. 11 W.,
Sec. 10, E $\frac{1}{2}$ SE $\frac{1}{4}$.
Sec. 11, NW $\frac{1}{4}$ NW $\frac{1}{4}$.
T. 33 S., R. 12 W.,
Sec. 8, N $\frac{1}{2}$.
T. 38 S., R. 22 E.,
Sec. 10, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$.

The areas described aggregate 6,876.24 acres.

¹ Applicable only to the proposed marketing agreement.

The lands are primarily suitable for grazing.

No applications for these lands may be allowed under the homestead, small tract, desert-land, or any other non-mineral public-land laws, unless the lands have already been classified as valuable or suitable for such type of application, or shall be so classified upon consideration of an application.

This order shall not otherwise become effective to change the status of such lands until 10:00 a. m. on the 35th day after the date of this order. At that time the said lands shall, subject to valid existing rights and the provisions of existing withdrawals, become subject to application, petition, location, and selection as follows:

(a) *Ninety-one day period for preference-right filings.* For a period of 91 days, commencing at the hour and on the day specified above, the public lands affected by this order shall be subject only to (1) application under the homestead or the desert-land laws or the Small Tract Act of June 1, 1938, 52 Stat. 609 (43 U. S. C. 682a), as amended, by qualified veterans of World War II and other qualified persons entitled to preference under the act of September 27, 1944, 58 Stat. 747 (43 U. S. C. 279-284), as amended, subject to the requirements of applicable law, and (2) application under any applicable public-land law, based on prior existing valid settlement rights and preference rights conferred by existing laws or equitable claims subject to allowance and confirmation. Applications under subdivision (1) of this paragraph shall be subject to applications and claims of the classes described in subdivision (2) of this paragraph. All applications filed under this paragraph either at or before 10:00 a. m. on the 35th day after the date of this order shall be treated as though filed simultaneously at that time. All applications filed under this paragraph after 10:00 a. m. on the said 35th day shall be considered in the order of filing.

(b) *Date for non-preference-right filings.* Commencing at 10:00 a. m. on the 126th day after the date of this order, any lands remaining unappropriated shall become subject to such application, petition, location, selection, or other appropriation by the public generally as may be authorized by the public-land laws. All such applications filed either at or before 10:00 a. m. on the 126th day after the date of this order, shall be treated as though filed simultaneously at the hour specified on such 126th day. All applications filed thereafter shall be considered in the order of filing.

A veteran shall accompany his application with a complete photostatic, or other copy (both sides), of his certificate of honorable discharge, or of an official document of his branch of the service which shows clearly his honorable discharge as defined in § 181.36 of Title 43 of the Code of Federal Regulations, or constitutes evidence of other facts upon which the claim for preference is based and which shows clearly the period of service. Other persons claiming credit for service of veterans must furnish like proof in support of their claims. Persons

asserting preference rights, through settlement or otherwise, and those having equitable claims, shall accompany their applications by duly corroborated statements in support thereof, setting forth in detail all facts relevant to their claims.

Applications for these lands, which shall be filed in the Land and Survey Office, Salt Lake City, Utah, shall be acted upon in accordance with the regulations contained in § 295.8 of Title 43 of the Code of Federal Regulations and Part 296 of that title, to the extent that such regulations are applicable. Applications under the homestead laws shall be governed by the regulations contained in Parts 166 to 170, inclusive, of Title 43 of the Code of Federal Regulations, and applications under the desert-land laws and the said Small Tract Act of June 1, 1938, shall be governed by the regulations contained in Parts 232 and 257, respectively, of that title.

Inquiries concerning these lands shall be addressed to the Manager, Land and Survey Office, Salt Lake City, Utah.

WILLIAM ZIMMERMAN, Jr.,
Assistant Director.

[F. R. Doc. 50-7084; Filed, Aug. 14, 1950;
8:47 a. m.]

ARIZONA

CLASSIFICATION ORDER

AUGUST 8, 1950.

1. Pursuant to the authority delegated to me by the Director, Bureau of Land Management, by Order No. 319 dated July 19, 1948 (43 CFR 50.451 (b) (3), 13 F. R. 4278), I hereby classify under the Small Tract Act of June 1, 1938 (52 Stat. 609), as amended July 14, 1945 (59 Stat. 467, 43 U. S. C. section 682a), as herein-after indicated, the following described lands in the Phoenix, Arizona, Land District, embracing 1108.84 acres,

ARIZONA SMALL TRACT CLASSIFICATION No. 19

For lease and sale for all purposes authorized by the act except business sites:

T. 4 N., R. 3 E., G. & S. R. B. & M., Arizona
Sec. 6, All
Sec. 7, N $\frac{1}{2}$
Sec. 25, NW $\frac{1}{4}$ SW $\frac{1}{4}$
Sec. 28, E $\frac{1}{2}$ NE $\frac{1}{4}$
Sec. 31, W $\frac{1}{2}$ NE $\frac{1}{4}$
Sec. 33, SE $\frac{1}{4}$ NE $\frac{1}{4}$

2. These lands are situated north of Phoenix, Arizona, at distances varying from 12 to 20 miles, depending upon the location of the subdivision in the township and upon the route traveled. Sections 6 and 7 lie farthest north of Phoenix and the north line of Section 6 may be reached by traveling northwest out of Phoenix 2 miles via Grand Avenue to Mission Drive, thence north on Mission Drive and the new Black Canyon Highway 17 miles, thence east 1 mile to the northwest corner of Section 6. Nineteenth Avenue, when extended due north, will form the west line of sections 6 and 7. The distance to the extreme north edge of the area via Nineteenth Avenue would be 19 miles.

Section 25: The NW $\frac{1}{4}$ SW $\frac{1}{4}$ may be reached by traveling North 7th Street from its intersection with McDowell

Road 7 miles north to Sunnyslope, thence 6 to 6.5 miles northeast via Cave Creek Road, thence 1 to 1.5 miles east and northeast to the land.

Section 28: The E $\frac{1}{2}$ NE $\frac{1}{4}$ may be reached by traveling north and northwest via North 7th Street and the Cave Creek Road a distance of approximately 13 miles, thence west along the south line of section 27, 1 mile, thence north 0.5 of a mile, a total distance of 14.5 miles. The last mile and one-half is over rough, sandy desert trails.

Section 33: The SE $\frac{1}{4}$ NE $\frac{1}{4}$ may be reached by traveling North 7th Street and Cave Creek Road 13 miles north and northwest from Phoenix, thence 1 mile west along the south line of section 27, thence $\frac{1}{4}$ mile south from section line to land.

Section 31: The W $\frac{1}{2}$ NE $\frac{1}{4}$ may be reached by traveling Grand Avenue northwest 1 mile from Phoenix to Nineteenth Avenue, thence north on Nineteenth Avenue 12 miles to Bell Road, thence northeast 0.5 of a mile over desert terrain to the land.

Electric power transmission lines traverse the west and south sides of the township and another electric power transmission line parallels Cave Creek Road. Thus, electric power is obtainable for all the lands classified. There are no other public utilities available and lessees must provide their own water, fuel and sanitary facilities. Business facilities such as stores, service stations and garages, and some educational, religious and recreational facilities are available at the town of Sunnyslope lying from 6 to 12 miles south of the various subdivisions and all such facilities common to a city of 200,000 population are available in Phoenix. The elevation of these lands above sea level ranges from 1,500 to 1,600 feet. The topography is level to rolling. The soil is an admixture of clay, silt, sand and gravel and very fertile. Potable water in considerable quantity is found at depths ranging from 300 to 600 feet. The mean annual precipitation is approximately 8 inches and temperatures range from a rare below freezing point to as high as 120° F.

3. As to applications regularly filed prior to 1:00 p. m. mountain standard time on May 7, 1946, and which are for the type of site for which the land is classified, this order shall become effective upon the date it is signed.

4. As to the land not covered by applications of the class referred to in section 3, this order shall not become effective to permit leasing under the Small Tract Act of June 1, 1938, as amended, until 10:00 a. m. mountain standard time on October 10, 1950. At that time such lands shall, subject to valid existing rights, become subject to application as follows:

(a) Ninety-one day preference period for qualified veterans of World War II from 10:00 a. m. on October 10, 1950, to close of business on January 8, 1951.

(b) Advance period for veterans' simultaneous filings from 1:00 p. m. on May 7, 1946, to 10:00 a. m. October 10, 1950.

5. Any of the land remaining unappropriated shall become subject to appli-

cation under the Small Tract Act by the public generally, commencing at 10:00 a. m. on January 9, 1951.

(a) Advance period for simultaneous nonpreference right filings from 1:00 p. m. on May 7, 1946, to 10:00 a. m. on January 9, 1951.

6. Applications filed within the periods mentioned in sections 4 (b) and 5 (a) above will be treated as simultaneously filed.

7. A veteran shall accompany his application with a complete photostatic, or other copy (both sides), of his certificate of honorable discharge, or of an official document of his branch of the service which shows clearly his honorable discharge as defined in § 181.36 of Title 43 of the Code of Federal Regulations, or constitutes evidence of other facts upon which the claim for preference is based and which shows clearly the period of service. Other persons claiming credit for service of veterans must furnish like proof in support of their claims. Persons asserting preference rights, through settlement or otherwise, and those having equitable claims, shall accompany their applications by duly corroborated statements in support thereof, setting forth in detail all facts relevant to their claims.

8. All of the land will be leased in tracts of approximately 5 acres, each being approximately 330 feet by 660 feet; and the longer dimensions of the tracts may extend either north and south or east and west, provided the tract conforms to or is made to conform to the area and dimensions specified above, and, provided the tract is not described in such a manner as to break up a ten-acre rectangular subdivision. This proviso applies to all leases issued, preference and nonpreference alike. The longitudinal directions of tracts described in applications filed prior to the date of this order shall not be disturbed unless they have been filed in such a manner as to violate the rectangular subdivision rule.

9. Leases will be for a period of 5 years at an annual rental of \$5.00 payable for the entire lease period in advance of the issuance of the lease.

10. Leases will contain an option to purchase clause at appraised values as follows:

Section 6: For those tracts lying in the $W\frac{1}{2}$ of Lots 4, 5, 6 and 7 (equivalent to the $W\frac{1}{2}W\frac{1}{2}W\frac{1}{2}$), \$250.00 per tract.

For tracts lying in the $E\frac{1}{2}$ of Lots 4, 5, 6 and 7 (equivalent to the $E\frac{1}{2}W\frac{1}{2}W\frac{1}{2}$), \$175.00 per tract.

For tracts lying in the $E\frac{1}{2}W\frac{1}{2}$ and $E\frac{1}{2}$ of the section, \$125.00 each.

Section 7: For tracts lying in the $W\frac{1}{2}$ of Lots 1 and 2, \$250.00 each.

For tracts lying in the $E\frac{1}{2}$ of Lots 1 and 2, \$175.00 each.

For tracts lying in the $E\frac{1}{2}NW\frac{1}{4}$ and $NE\frac{1}{4}$ of the section, \$125.00 each.

Section 25: $NW\frac{1}{4}SW\frac{1}{4}$, per 5-acre tract, \$100.00.

Section 28: $E\frac{1}{2}NE\frac{1}{4}$, per 5-acre tract, \$100.00.

Section 31: $W\frac{1}{2}NE\frac{1}{4}$, per 5-acre tract, \$150.00.

Section 33: $SE\frac{1}{4}NE\frac{1}{4}$, per 5-acre tract, \$100.00.

(a) Applications for purchase may be filed at or after the expiration of one

year from the date the lease issued, provided that improvements, appropriate to the purpose for which the lease is issued and which meet with the approval of the Regional Administrator shall have been constructed upon the lands prior to filing of the application for purchase.

(b) Leases issued under the terms of this order shall not be subject to assignment unless and until improvements as mentioned above in (a) shall have been completed.

(c) Leases for lands upon which the improvements above mentioned shall not have been constructed at or before the expiration thereof shall not be renewed.

11. Lessees and/or their successors in interest shall comply with all Federal, State, county and municipal laws and ordinances, especially those governing health and sanitation, and failure or refusal to do so may be cause for cancellation of the lease in the discretion of the authorized officer of the Bureau of Land Management.

12. Rights-of-way for road and street purposes 33 feet in width are reserved from each tract and said 33-foot strip may be taken for street, road or alley from any edge of any of said tracts, but not more than one such strip for right-of-way shall be taken from any tract without the consent of the lessee first had and obtained, or unless such right-of-way shall be condemned by proper eminent domain proceedings in a court of competent jurisdiction. The said rights-of-way, may in the discretion of the authorized officer of the Bureau of Land Management, be definitely located prior to issuance of patent. If not so located, they may be subject to location after patent is issued. All rights-of-way herein mentioned and reserved may be utilized by the Federal Government, or the State, county, or municipality in which the tract is situated, or by any agency thereof.

13. All structures with the exception of fences and like movable installations shall be set back from the exterior boundaries of the tract not less than 33 feet, and if there is a road or street in existence, or an identified and definitely established right-of-way for such road or street, then and in that event, all permanent structures will be set back not less than 33 feet from the outside line of the said established road, street, or definitely identified right-of-way.

14. Survey of individual tracts shall be at the expense of the applicant.

15. All leases and patents issued shall contain a reservation to the United States of all fissionable material sources, and all minerals, together with the right to prospect for, mine and remove the same under applicable laws and regulations.

16. All inquiries regarding these lands shall be addressed to the Manager, United States Land and Survey Office, 100 U. S. Courthouse, Phoenix, Arizona.

E. R. SMITH,
Regional Administrator.

[F. R. Doc. 50-7075; Filed, Aug. 14, 1950;
8:45 a. m.]

ARIZONA

CLASSIFICATION ORDER

AUGUST 8, 1950.

1. Pursuant to the authority delegated to me by the Director, Bureau of Land Management, by Order No. 319 dated July 19, 1948 (43 CFR 50.451 (b) (3), 13 F. R. 4278), I hereby classify under the Small Tract Act of June 1, 1938 (52 Stat. 609), as amended July 14, 1945 (59 Stat. 467, 43 U. S. C. 682a), as herein-after indicated, the following described lands in the Phoenix, Arizona, Land District, embracing 110 acres.

ARIZONA SMALL TRACT CLASSIFICATION No. 20

For lease and sale for home, and cabin site purposes:

T. 10 N., R. 6 W., G. & S. R. B. & M., Arizona
Sec. 26, $NW\frac{1}{4}SW\frac{1}{4}$, $N\frac{1}{2}SW\frac{1}{4}SW\frac{1}{4}$, $S\frac{1}{2}S\frac{1}{2}SW\frac{1}{4}SW\frac{1}{4}$
Sec. 25, $NW\frac{1}{4}NW\frac{1}{4}$

The $N\frac{1}{2}S\frac{1}{2}SW\frac{1}{4}SW\frac{1}{4}$ of Section 26 is excluded and reserved from classification for small site purposes and is hereby designated and classified as an administrative driveway for livestock.

2. These lands are situated about 1 mile north of the village of Congress Junction which is on U. S. Highway 89, 16 miles northwest of Wickenburg and 50 miles southwest of Prescott, Arizona. The village is also the junction point for U. S. 89 and State Highway 71 which latter is a short-cut between Congress Junction and Aguila, Arizona at which latter point State Highway 71 intersects U. S. 60-70 to California. Congress Junction is also a shipping point on a branch line of the Atchison, Topeka & Santa Fe Railway which connects Ashfork via Prescott with Phoenix, Arizona. The village has the business, educational, religious and recreational facilities usually found in villages of its size. The town secures its water supply from the railroad company, there being no water wells or other source of such supply. The city of Phoenix lies 60 miles south. The lands are accessible by a maintained dirt road paralleling the railroad on the west side of the tracks.

The elevation of the lands above sea level ranges from 2,200 to 2,300 feet. Winters are short and mild and summers are long and hot. Precipitation of moisture averages about 10 inches per annum. The topography of the lands is level to slightly rolling, and the soil is a mixture of clay, sand and gravel. There is no timber or brush. The appearance of the land is that of a prairie and the predominating vegetative cover is grama grass, weeds and various species of cacti. Water must be hauled from the railroad station at Congress Junction or a supply caught from roof runoff into cisterns during the infrequent rains. Electricity is obtainable from a power transmission line paralleling the railroad and highway. Settlers on the lands must furnish their own fuel, water and sanitary facilities.

3. As to applications regularly filed prior to 9:30 a. m. mountain standard time on August 5, 1948, and which are for the type of site for which the land is classified, this order shall become effective upon the date it is signed.

4. As to the land not covered by applications referred to in paragraph 3, this order shall not become effective to permit leasing under the Small Tract Act of June 1, 1938, as amended, until 10:00 a. m. mountain standard time on October 10, 1950. At that time such land shall, subject to valid existing rights and the provisions existing withdrawals, become subject to application as follows:

(a) Ninety-one day preference period for qualified veterans of World War II from 10:00 a. m. on October 10, 1950, to close of business on January 8, 1951.

(b) Advance period for veterans' simultaneous filings from 9:30 a. m. on August 5, 1948, to 10:00 a. m. on October 10, 1950.

5. Any of the land remaining unappropriated shall become subject to application under the Small Tract Act by the public generally, commencing at 10:00 a. m. on January 9, 1951.

(a) Advance period for simultaneous nonpreference right filings from 9:30 a. m. on August 5, 1948, to 10:00 a. m. on January 8, 1951.

6. Applications filed within the periods mentioned in paragraphs 4 (b) and 5 (a) above will be treated as simultaneously filed.

7. A veteran shall accompany his application with a complete photostatic, or other copy (both sides) of his certificate of honorable discharge, or of an official document of his branch of the service which shows clearly his honorable discharge as defined in § 181.36 of Title 43 of the Code of Federal Regulations, or constitutes evidence of other facts upon which the claim for preference is based and which shows clearly the period of service. Other persons claiming credit for service of veterans must furnish like proof in support of their claims. Persons asserting preference rights, through settlement or otherwise, and those having equitable claims, shall accompany their applications by duly corroborated statements in support thereof, setting forth in detail all facts relevant to their claims.

8. All of the land will be leased in tracts of approximately 5 acres, each being approximately 330 feet by 660 feet, and the longer dimensions of the tracts may extend either north and south or east and west, provided the tract conforms to or is made to conform to the area and dimensions specified above, and, provided the tract is not described in such a manner as to break up a ten-acre rectangular subdivision. This proviso applies to all leases issued, preference and nonpreference alike. The longitudinal directions of tracts described in applications filed prior to the date of this order shall not be disturbed unless they have been filed in such a manner as to violate the rectangular subdivision rule.

(a) Application for a five-acre tract filed under Phoenix serial number 082290 by James E. Austin will be rejected in its present position and the applicant will be granted a reasonable period of time in which to amend his application to describe the S $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 26. This application will not then invade the lands heretofore reserved as an administrative driveway for livestock.

9. Leases will be for a period of 5 years at an annual rental of \$5.00 payable for the entire lease period in advance of the issuance of the lease.

10. Leases will contain an option to purchase clause at the appraised value of \$50.00 per tract.

(a) Applications for purchase may be filed at or after the expiration of one year from the date the lease issued, provided that improvements, appropriate to the purpose for which the lease is issued and which meet with the approval of the Regional Administrator shall have been constructed upon the lands prior to filing of the application for purchase.

(b) Leases issued under the terms of this order shall not be subject to assignment unless and until improvements as mentioned above in (a) shall have been completed.

(c) Leases for lands upon which the improvements above mentioned shall not have been constructed at or before the expiration thereof shall not be renewed.

11. Lessees and/or their successors in interest shall comply with all Federal, State, County and municipal laws and ordinances, especially those governing health and sanitation, and failure or refusal to do so may be cause for cancellation of the lease in the discretion of the authorized officer of the Bureau of Land Management.

12. Rights-of-way for road and street purposes 33 feet in width are reserved from each tract and said 33-foot strip may be taken for street, road or alley from any edge of any of said tracts, but not more than one such strip for right-of-way shall be taken from any tract without the consent of the lessee first had and obtained, or unless such right-of-way shall be condemned by proper eminent domain proceedings in a court of competent jurisdiction. The said rights-of-way may, in the discretion of the authorized officer of the Bureau of Land Management, be definitely located prior to issuance of patent. If not so located, they may be subject to location after patent is issued. All rights-of-way herein mentioned and reserved may be utilized by the Federal Government, or the State, county or municipality in which the tract is situated, or by any agency thereof.

13. All structures with the exception of fences and like movable installations shall be set back from the exterior boundaries of the tract not less than 33 feet and if there is a road or street either in existence, or an identified and definitely established right-of-way for such road or street, then and in that event, all permanent structures will be set back not less than 33 feet from the outside line of the said established road, street, or definitely identified right-of-way.

14. Survey of individual tracts shall be at the expense of the applicant.

15. All leases and patents issued shall contain a reservation to the United States of all fissionable material sources and all minerals, together with the right to prospect for, mine and remove the same under applicable laws and regulations.

16. All inquiries regarding these lands shall be addressed to the Manager,

United States Land and Survey Office,
100 U. S. Courthouse, Phoenix, Arizona.

E. R. SMITH,
Regional Administrator.

[P. R. Doc. 50-7076; Filed, Aug. 14, 1950;
8:45 a. m.]

ARIZONA

CLASSIFICATION ORDER

AUGUST 8, 1950.

1. Pursuant to the authority delegated to me by the Director, Bureau of Land Management, by Order No. 319 dated July 19, 1948 (43 CFR 50.451 (b) (3), 13 F. R. 4278), I hereby classify under the Small Tract Act of June 1, 1938 (52 Stat. 609), as amended July 14, 1945 (59 Stat. 467, 43 U. S. C. 682a), as herein-after indicated, the following described lands in the Phoenix, Arizona, Land District, embracing 1,840 acres.

ARIZONA SMALL TRACT CLASSIFICATION No. 21

For lease and sale for all purposes authorized by the act except business sites:

T. 1 N., R. 8 E., G. & S. R. B. & M., Arizona,
Sec. 12, All.
Sec. 15, E $\frac{1}{2}$ SW $\frac{1}{4}$.
Sec. 27, N $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$,
SW $\frac{1}{4}$ SW $\frac{1}{4}$.

For lease and sale for combination home and business sites, homesites, and/or cabin sites:

T. 1 N., R. 8 E., G. & S. R. B. & M., Arizona,
Sec. 15, NW $\frac{1}{4}$.
Sec. 27, SW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$,
S $\frac{1}{2}$ SE $\frac{1}{4}$.

2. These lands are located at distances ranging from 33 miles to 37 miles east of Phoenix, Arizona, and from 17 miles to 21 miles east of Mesa, Arizona depending upon the section to be reached. The lands in Sections 21 and 27 are traversed diagonally in a northwesterly and southeasterly direction by U. S. Highway 60-70; and U. S. Highway 88, the famed Apache Trail, crosses the NW $\frac{1}{4}$ of Section 15 in a northeasterly and southwesterly direction. The junction of these two roads is located at Apache Junction in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 20, T. 1 N., R. 8 E., G. & S. R. B. & M. Both Phoenix and Mesa have all business, educational, religious and recreational facilities common to large American cities and there are stores, gasoline service stations, garages, restaurants, grade schools and churches at or near Apache Junction and all along U. S. 60-70 between the latter point and Mesa. An electric power transmission line extends from Mesa parallel to U. S. 60-70 and ends in Apache Junction. This line presently supplies lights and power to Apache Junction and communities west to Mesa. The line would have to be extended in order to furnish current to installations on these lands. A high voltage electric power transmission line extends from Roosevelt Dam to Mesa and Florence, but due to its high voltage, power from the line is not available in this area. Other utilities are not available and water supply, fuel and sanitary facilities are problems to be solved by the settlers. Potable water adequate for domestic use may be found at depths up to 450 feet. The

elevation of the lands above sea level varies from 1,700 feet in Sections 21 and 27 to 2,100 feet in the east side of Section 12. The whole area slopes gently from northeast to southwest on a gradient of about 1½ per cent. The soil is sand and silt with an admixture of gravel. Vegetation consists of bur-sage, creosote brush, palo verde, saguaro, ocotillo, scattered cacti, and annual grasses and weeds. There is no timber, no springs or flowing streams. The area is typically southwestern desert. The winters are short and mild, summers long and hot. Mean annual precipitation is approximately 8 inches.

3. As to applications regularly filed prior to 10:00 a. m. mountain standard time on June 30, 1948, and which are for the type of site for which the land is classified, this order shall become effective as of the date it is signed.

4. As to the land not covered by applications referred to in paragraph 3, this order shall not become effective to permit leasing under the Small Tract Act of June 1, 1938, as amended, until 10:00 a. m. mountain standard time on October 10, 1950. At that time such lands shall, subject to valid existing rights and the provisions of existing withdrawals, become subject to application as follows:

(a) Ninety-one day preference period for qualified veterans of World War II from 10:00 a. m. October 10, 1950, to close of business on January 8, 1951.

(b) Advance period for veterans' simultaneous filings from 10:00 a. m. on June 30, 1948, to 10:00 a. m. on October 10, 1950.

5. Any of the land remaining unappropriated shall become subject to application under the Small Tract Act by the public generally, commencing at 10:00 a. m. on January 9, 1951.

(a) Advance period for simultaneous nonpreference right filings from 10:00 a. m. on June 30, 1948, to 10:00 a. m. on January 8, 1951.

6. Applications filed within the periods mentioned in sections 4 (b) and 5 (a) above will be treated as simultaneously filed.

7. A veteran shall accompany his application with a complete photostatic, or other copy (both sides), of his certificate of honorable discharge, or of an official document of his branch of the service which shows clearly his honorable discharge as defined in §181.36 of Title 43 of the Code of Federal Regulations, or constitutes evidence of other facts upon which the claim for preference is based and which shows clearly the period of service. Other persons claiming credit for service of veterans must furnish like proof in support of their claims. Persons asserting preference rights, through settlement or otherwise, and those having equitable claims, shall accompany their applications by duly corroborated statements in support thereof, setting forth in detail all facts relevant to their claims.

8. All of the land will be leased in tracts of approximately 5 acres, each being approximately 330 feet by 660 feet and the longer dimensions of the tracts may extend either north and south or east and west, provided the tract con-

forms to or is made to conform to the area and dimensions specified above, and, provided the tract is not described in such a manner as to break up a ten-acre rectangular subdivision. This proviso applies to all leases issued, preference and non-preference alike. The longitudinal directions of tracts described in applications filed prior to the date of this order shall not be disturbed unless they have been filed in such a manner as to violate the rectangular subdivision rule.

9. Leases on all tracts which are taken for purposes other than combination home and business sites will be for a period of 5 years at an annual rental of \$5.00 payable for the entire lease period in advance of the issuance of the lease.

(a) Leases for tracts for combination home and business sites will be for a period of 5 years at the minimum annual rental of \$20.00 payable for the first year in advance of the issuance of the lease and for each succeeding year thereafter on a date not less than 30 days prior to the beginning of the lease year, or the lessee may, at his option, pay the minimum rental of \$20.00 per annum for the entire lease period in advance of issuance of the lease. Rentals on combination home and business sites will be graduated upward in accordance with the schedule of rentals for business sites in effect as of the date this order is signed.

(b) Leases for combination home and business sites shall contain a provision requiring an annual report from each lessee who has taken a tract for such purposes as to whether or not he has conducted a business thereon and if so, an accounting of the gross income derived therefrom. Such lease will also contain a clause reserving to the duly appointed, qualified and acting representative of the Bureau of Land Management the right to enter upon and inspect the premises and to examine the books and accounts pertaining to any business conducted thereon at any time during regular business hours.

10. Leases will contain an option to purchase clause at appraised values as follows:

Section 12:	Per tract
NW¼	\$100.00
NE¼	75.00
S¼	50.00
Section 15:	
NW¼	125.00
NE¼	100.00
S¼	75.00
Section 21: SW¼	175.00
Section 27:	
N¼NW¼	100.00
S¼NW¼	125.00
N¼SE¼	100.00
S¼SE¼	150.00
S¼SW¼	100.00
N¼SW¼	150.00

(a) Applications for purchase may be filed at or after the expiration of one year from the date the lease issued, provided that improvements, appropriate to the purpose for which the lease is issued and which meet with the approval of the Regional Administrator shall have been constructed upon the lands prior to filing of the application for purchase.

(b) Leases issued under the terms of this order shall not be subject to assignment unless and until improvements as

mentioned above in (a) shall have been completed.

(c) Leases for lands upon which the improvements above mentioned shall not have been constructed at or before the expiration thereof shall not be renewed.

11. Lessees and/or their successors in interest shall comply with all Federal, State, county and municipal laws and ordinances, especially those governing health and sanitation and failure or refusal to do so may be cause for cancellation of the lease in the discretion of the authorized officer of the Bureau of Land Management.

12. Rights-of-way for road and street purposes 33 feet in width are reserved from each tract and said 33-foot strip may be taken for street, road or alley from any edge of any of said tracts, but not more than one such strip for right-of-way shall be taken from any track without the consent of the lessee first had and obtained, or unless such right-of-way shall be condemned by proper eminent domain proceedings in a court of competent jurisdiction. The said rights-of-way may, in the discretion of the authorized officer of the Bureau of Land Management, be definitely located prior to issuance of patent. If not so located, they may be subject to location after patent is issued. All rights-of-way herein mentioned and reserved may be utilized by the Federal Government, or the State, county or municipality in which the tract is situated, or by any agency thereof.

13. All structures with the exception of fences and like movable installations shall be set back from the exterior boundaries of the tract not less than 33 feet and if there is a road or street in existence, or an identified and definitely established right-of-way for such road or street, then and in that event, all permanent structures will be set back not less than 33 feet from the outside line of the said established road, street, or definitely identified right-of-way.

14. Survey of individual tracts shall be at the expense of the applicant.

15. All leases and patents issued shall contain a reservation to the United States of all fissionable material sources, and all minerals, together with the right to prospect for, mine and remove the same under applicable laws and regulations.

16. All inquiries regarding these lands shall be addressed to the Manager, United States Land and Survey Office, 100 U. S. Courthouse, Phoenix, Arizona.

E. R. SMITH,
Regional Administrator.

[F. R. Doc. 50-7077; Filed, Aug. 14, 1950;
8:45 a. m.]

DEPARTMENT OF COMMERCE

Federal Maritime Board

AMERICAN HAWAIIAN STEAMSHIP CO. ET AL.

NOTICE OF HEARING ON APPLICATIONS TO
EXTEND BAREBOAT CHARTER AGREEMENTS

Correction

In Federal Register Document 50-7091, published on page 5320 of the issue for Saturday, August 12, 1950, the date

of the hearing, appearing in the second paragraph, should read "August 28, 1950."

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 8305, 8637]

ON THE AIR, INC. (WGBF), AND WMRO, INC. (WMRO)

ORDER ENLARGING ISSUES

In re applications of On the Air, Inc. (WGBF), Evansville, Indiana, for construction permit, Docket No. 8305, File No. BP-3844; WMRO, Incorporated (WMRO), Aurora, Illinois, for modification of license, Docket No. 8637, File No. BML-1276.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 3d day of August 1950;

The Commission having under consideration the initial decision in the above-entitled proceeding; the exceptions thereto, requests for oral argument and reply to exceptions, filed by the participants; a motion to strike certain portions of the exceptions of the applicant WMRO, Inc., filed May 25, 1950, by Minnesota Broadcasting Corporation (WTCN), respondent; and an opposition thereto filed June 5, 1950, by WMRO, Inc., requesting that the motion to strike be denied, or in the alternative that it be considered together with the oral argument on the exceptions; and

It appearing that it will be most conducive to the orderly dispatch of business to accord the interested parties an opportunity to be heard on the aforesaid motion to strike and opposition thereto in connection with the oral argument on the exceptions to the initial decision;

It is ordered, That at the oral argument herein the parties are afforded an opportunity to address themselves not only to the exceptions filed to the initial decision, but also to the aforesaid motion to strike and opposition thereto.

Released: August 4, 1950.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 50-7097; Filed, Aug. 14, 1950; 8:49 a. m.]

[Docket Nos. 9522, 9523]

SUNLAND BROADCASTING CO. AND RIO GRANDE BROADCASTING CO.

ORDER CONTINUING HEARING

In re applications of Sunland Broadcasting Company, El Paso, Texas, File No. BR-1879, Docket No. 9522; for renewal of license of Station KSET, El Paso, Texas, Sunland Broadcasting Company (assignor), File No. BAL-946, Docket No. 9523; Rio Grande Broadcasting Company (assignee), for consent to assignment of the license of Station KSET, El Paso, Texas.

The Commission having under consideration a joint petition filed July 27,

No. 157—12

1950, by Sunland Broadcasting Company and Rio Grande Broadcasting Company, applicants in the above-entitled proceeding, requesting a continuance to August 29, 1950, of the hearing presently scheduled for August 14, 1950, in El Paso, Texas; and

It appearing, that one of the principal witnesses in the proceeding finds it necessary to be out of the city of El Paso during the week of August 14th; and

It further appearing, that there are no other parties to the proceeding and no objection to the grant of the petition has been filed by the General Counsel;

It is ordered, This 4th day of August 1950, that the petition be, and it is hereby, granted; and that the hearing on the above-entitled applications now scheduled for August 14, 1950, be, and it is hereby, continued to August 29, 1950, at 10 o'clock a. m., in El Paso, Texas.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 50-7101; Filed, Aug. 14, 1950; 8:50 a. m.]

[Docket No. 9637]

RADIO ATHENS, INC. (WRFC)

ORDER AMENDING ISSUES

In re application of Radio Athens, Inc. (WRFC), Athens, Georgia, for construction permit; Docket No. 9637, File No. BP-7415.

At a session of the Federal Communications Commission held at its offices in Washington, D. C., on the 2d day of August 1950;

The Commission having under consideration a petition filed July 26, 1950, by May Broadcasting Company (KMA), requesting a modification or clarification of Issue No. 4 specified in the Commission's order of April 21, 1950, designating the above-entitled application for hearing; and an opposition thereto filed by Radio Athens, Inc. (WRFC); and

It appearing, that Radio Athens, Inc., has no objection to amending the issue concerned so as to read the same as that issue specified in the Commission's mem-

orandum opinion and order of July 26, 1950, in re Platte Valley Broadcasting Corporation (KNEB) (Docket No. 9596); and that the instant petitioner also desires that the said issue be reworded so as to be similar to the issue specified in that memorandum opinion and order; and

It further appearing, that for the reasons set forth in the Commission's memorandum opinion and order, in re Platte Valley Broadcasting Corporation (KNEB), the instant petition should be granted and Issue No. 4 accordingly amended;

It is ordered, That the petition of May Broadcasting Company (KMA), is granted; and that the Commission's order of April 21, 1950, designating the above-entitled application of Radio Athens, Inc. (WRFC), for hearing is amended to delete Issue No. 4 therefrom and to include therein the following as Issue No. 4:

4. To determine whether Station KMA, Shenandoah, Iowa, renders primary service beyond its normally protected contour in any area or areas within which the operation of Station WRFC as proposed may involve interference and, if so, whether 90 percent of the population (population served with an adequate signal) in those areas are supplied with primary service by any other station or stations which carry the same general program service as Station KMA.

Released: August 3, 1950.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 50-7098; Filed, Aug. 14, 1950; 8:49 a. m.]

[Docket Nos. 8305, 8637, 9444, 9445, 9497]

KOKOMO PIONEER BROADCASTERS ET AL.

NOTICE OF ORAL ARGUMENT

Beginning at 10:00 o'clock a. m., on Monday, September 18, 1950, the Commission will hear oral argument in Room 6121, on the following matters in the order indicated:

ARGUMENT No. 1

Docket No.				
9444 BP-7261	New.....	Donald A. Burton, William F. Craig & Ralph J. Whitinger, a partnership d/b as Kokomo Pioneer Broadcasters, Kokomo, Ind.	CP.....	1400 kc. 250 w. night, 250 w. day unlimited.
9445 BP-7305	New.....	Chronicle Publishing Co., Inc., Marion, Ind.	CP.....	1400 kc. 250 w. night, 250 w. day unlimited.
9497 BP-7380	WBAT.....	Marion Radio Corp., Marion, Ind.	CP to change frequency, decrease power, etc.	1400 kc. 250 w. night, 250 w. day unlimited.

ARGUMENT No. 2

8305 BP-P-3844	WGBF.....	On the Air, Inc., Evansville, Ind.	CP to increase power, etc.	1280 kc. 5 kw. DA night, 5 kw. day unlimited.
8637 BML-1276	WMRO.....	WMRO, Inc., Aurora, Ill.	Modification of license.	1280 kc. 100 w. night, 250 w. day unlimited.

Dated: August 1, 1950.

[SEAL]

FEDERAL COMMUNICATIONS COMMISSION,
T. J. SLOWIE,
Secretary.

[F. R. Doc. 50-7098; Filed, Aug. 14, 1950; 8:49 a. m.]

[Docket Nos. 8380, 9205, 9206, 9253, 9254, 9263]

OZARKS BROADCASTING CO. ET AL.

NOTICE OF ORAL ARGUMENT

Beginning at 10:00 o'clock a. m., on Friday, September 15, 1950, the Commission will hear oral argument in Room 6121, on the following matters in the order indicated:

ARGUMENT No. 1

Docket No.				
8380 B4-P-5259	KWTO	Ozarks Broadcasting Company, Springfield, Mo.	CP to increase power, etc.	500 kc. 5 kw. DA night, 5 kw. day unlimited.

ARGUMENT No. 2

9253 BP-6845	WTNJ	WOAX, Inc., Trenton, N. J.	CP to change frequency, increase power, etc.	1,260 kc. 500 w. day, daytime only.
9254 BP-0967	WBUD	Morrisville Broadcasting Co., Trenton, N. J.	CP to change frequency, increase power, etc.	1,290 kc. 1 kw. night, 1 kw. day DA-1 unlimited.

ARGUMENT No. 3

9205 BR-1697	KPMO	Myron E. Kluge and Dean H. Wickstrom, a partnership d/b as Valley Broadcasting Co., Pomona, Calif.		Renewal of license.
9206 BAL-655	KPMO	Myron E. Kluge and Dean H. Wickstrom (assignor), d/b as Valley Broadcasting Co., Dean H. Wickstrom and Warner H. J. Sorenson, a partnership d/b as (as- signee), Valley Broad- casting Co., Pomona, Calif.		Voluntary assignment of li- cense.

ARGUMENT No. 4

9263 BI-3062	WMAW	Midwest Broadcasting Co., Milwaukee, Wis.	License to cover CP..	1,250 kc. 5 kw. night, 5 kw. day DA unlimited.
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Dated: August 1, 1950.

[SEAL]

FEDERAL COMMUNICATIONS COMMISSION,
T. J. SLOWIE,
Secretary.

[F. R. Doc. 50-7100; Filed, Aug. 14, 1950; 8:50 a. m.]

[Docket Nos. 8996, 9066, 9067, 9086]

KENYON BROWN ET AL.

NOTICE OF ORAL ARGUMENT

Beginning at 10:00 o'clock a. m., on Friday, September 22, 1950, the Commission will hear oral argument in Room 6121, on the following matters in the order indicated:

ARGUMENT No. 1

Docket No.				
9066 BP-6093	New	Kenyon Brown, Tulsa, Okla.	CP	1340 kc. 250 w. night, 250 w. day unlimited.
9067 BP-6732	New	George E. Cameron, Jr., Tulsa, Okla.	CP	134 kc. 250w. night, 250 w. day unlimited.

ARGUMENT No. 2

9096 BP-5856	New	Belvedere Broadcasting Corp., Baltimore, Md.	CP	1400 kc. 250 w. night, 250 w. day unlimited.
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ARGUMENT No. 3

9086 B3-P-5631	New	W. L. Pennington and V. H. Gage, a partnership d/b as Falls County Public Ser- vice, Marlin, Tex.	CP	1010 kc. 250 w. day, daytime.
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Dated: August 1, 1950.

[SEAL]

FEDERAL COMMUNICATIONS COMMISSION,
T. J. SLOWIE,
Secretary.

[F. R. Doc. 50-7099; Filed, Aug. 14, 1950; 8:50 a. m.]

[Docket No. 9543]

STATION KPAB

ORDER REOPENING RECORD FOR FURTHER
HEARING

In the matter of revocation of license of Station KPAB, Laredo, Texas; Docket No. 9543.

The Commission having under consideration a petition filed by its General Counsel on May 8, 1950, requesting that the record in the above-entitled proceeding be reopened to receive additional evidence relating to the present employment of Mark Perkins and to such other matters as may be deemed relevant; and

It appearing, that the aforesaid Mark Perkins and Allen K. Tish, at the hearings herein, the record of which was closed on March 22, 1950 (subject only to the filing of one document which has since been filed), testified that Mark Perkins would continue his connection with Station KPAB; and

It further appearing, that in the aforesaid petition to reopen the record, the General Counsel alleges that subsequent to the closing of the record herein he was informed that Mark Perkins had left Laredo, Texas, and assumed full-time employment with Station KXYZ, Houston, Texas; that pursuant to inquiry, the Executive Vice-President of the licensee of Station KXYZ, by letter dated April 11, 1950, stated that Mark Perkins, on March 27, 1950, was employed by Station KXYZ as commercial salesman on a full-time basis; that the action of Mark Perkins subsequent to the closing of the record is not in accord with the representations made in the above-mentioned testimony of Perkins and Tish and casts substantial doubt on the truthfulness of that testimony; that therefore the record should be reopened; and that such evidence as may be presented, if the instant petition is granted, is newly discovered and could not with due diligence have been known or discovered at the time of the hearing; and

It further appearing, that the time for filing an opposition to the aforesaid petition has expired and no opposition has been filed thereto; and that the said petition sets forth facts which call for relief in accordance with the prayer thereof; and

It is further appearing, that the above-entitled matter was heard in a consolidated proceeding with Docket No. 9604, In the Matter of Application for Consent to Transfer of Control of Laredo Broadcasting Company, licensee of Station KPAB, Laredo, Texas; and that the aforesaid petition of the General Counsel requested a reopening of the records in both proceedings for the purpose stated; but that an order dismissing the application in Docket No. 9604 at the instance of the proposed transferee, Allen K. Tish, has been entered this day:

It is ordered, This 4th day of August 1950, that the aforesaid petition to reopen record, filed by the General Counsel of the Commission on May 8, 1950, is granted, insofar as it applies to Docket No. 9543, to the extent herein set forth; that the record in the said proceeding is

reopened to permit the taking of additional evidence relating to the present employment of Mark Perkins, his present connection with Station KPAB, and to such other matters as may be relevant thereto; and that the further hearing herein shall be held at the offices of the Commission in Washington, D. C., on a date to be specified in a subsequent order.

Released: August 4, 1950.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 50-7102; Filed, Aug. 14, 1950;
8:50 a. m.]

FEDERAL POWER COMMISSION

[Project No. 2055]

IDAHO POWER CO.

NOTICE OF APPLICATION FOR PRELIMINARY
PERMIT

AUGUST 9, 1950.

Public notice is hereby given that Idaho Power Company of Boise, Idaho, has filed application for preliminary permit under the Federal Power Act (16 U. S. C. 791a-825r) for a proposed hydroelectric development, designated as Project No. 2055, to be located on Snake River, Idaho, affecting public lands of the United States.

Any protest against the approval of this application or request for hearing thereon, with the reason for such protest or request and the name and address of the party or parties so protesting or requesting, should be submitted on or before September 18, 1950, to the Federal Power Commission.

[SEAL] J. H. GUTRIDE,
Acting Secretary.

[F. R. Doc. 50-7095; Filed, Aug. 14, 1950;
8:49 a. m.]

INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 25312]

CONCRETE PIPE IN THE SOUTH

APPLICATION FOR RELIEF

AUGUST 10, 1950.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for and on behalf of carriers parties to Agent C. A. Spaninger's tariff I. C. C. No. 1044.

Commodities involved: Concrete pipe, reinforced, carloads.

Between: Points in southern territory and between said points, on the one hand, and points in Virginia in official territory, on the other.

Grounds for relief: Circuitous routes and to maintain grouping.

Schedules filed containing proposed rates: C. A. Spaninger's tariff I. C. C. No. 1044, Supplement 103.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 50-7086; Filed, Aug. 14, 1950;
8:47 a. m.]

[4th Sec. Application 25313]

LUMBER FROM TEXAS TO OKLAHOMA

APPLICATION FOR RELIEF

AUGUST 10, 1950.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: The Atchison, Topeka and Santa Fe Railway Company for itself and on behalf of the Panhandle and Santa Fe Railway Company and other carriers named in the application.

Commodities involved: Lumber and related articles, carloads.

From: Presidio and El Paso, Tex.

To: Miami and Picher, Okla.

Grounds for relief: Competition with rail carriers.

Schedules filed containing proposed rates: AT&SF, tariff I. C. C. No. 14165, Supplement 68.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 50-7087; Filed, Aug. 14, 1950;
8:47 a. m.]

[4th Sec. Application 25314]

CRUDE RUBBER FROM NORTH ATLANTIC
PORTS TO OFFICIAL TERRITORY

APPLICATION FOR RELIEF

AUGUST 10, 1950.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: C. W. Boin, Agent, for and on behalf of carriers parties to the tariffs named below.

Commodities involved: Crude rubber, carloads.

From: North Atlantic ports.

To: Points in official territory.

Grounds for relief: Competition with rail carriers and circuitous routes.

Schedules filed containing proposed rates: C. W. Boin's tariff I. C. C. No. A-823, Supp. 212. I. N. Doe's tariff I. C. C. No. 591, Supp. 8. P. W. Phillips' tariff I. C. C. No. 240, Supp. 134.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL,
Secretary.

[F. R. Doc. 50-7088; Filed, Aug. 14, 1950;
8:47 a. m.]

[4th Sec. Application 25315]

CEMENT IN WESTERN TRUNK LINE
TERRITORY

APPLICATION FOR RELIEF

AUGUST 10, 1950.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: L. E. Kipp, Agent, for and on behalf of carriers parties to his tariffs I. C. C. Nos. A-2958 and A-3815.

Commodities involved: Cement and related articles, carloads.

From: Points in western trunk line territory, also Ada and Dewey, Okla.

To: Points in western trunk line territory.

Grounds for relief: Competition with rail carriers and circuitous routes.

Schedules filed containing proposed rates: L. E. Kipp's tariff I. C. C. No.

A-2958, Supp. 172. L. E. Kipp's tariff I. C. C. No. A-3815.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise, the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL]

W. P. BARTEL,
Secretary.

[P. R. Doc. 50-7089; Filed, Aug. 14, 1950;
8:47 a. m.]

[4th Sec. Application 25316]

PIG IRON FROM TEXAS TO WASHINGTON,
D. C.

APPLICATION FOR RELIEF

AUGUST 10, 1950.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: D. Q. Marsh, Agent, for and on behalf of carriers parties to his tariff I. C. C. No. 3752.

Commodities involved: Pig iron, carloads.

From: Daingerfield and Lone Star, Tex.

To: Washington, D. C.

Grounds for relief: Competition with rail carriers and circuitous routes.

Schedules filed containing proposed rates: D. Q. Marsh's tariff I. C. C. No. 3752, Supplement 468.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL]

W. P. BARTEL,
Secretary.

[P. R. Doc. 50-7090; Filed, Aug. 14, 1950;
8:47 a. m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 59-15]

NORTHERN NEW ENGLAND CO. AND NEW
ENGLAND PUBLIC SERVICE CO.

ORDER DENYING PETITIONS FOR REHEARING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 9th day of August A. D. 1950.

The Commission, acting pursuant to an Amended Plan filed by New England Public Service Company ("NEPSCO") under section 11 (e) of the Public Utility Holding Company Act of 1935, approved by the Commission by its Findings and Opinion and Order dated June 27, 1947, and approved and enforced by Order of the United States District Court for the District of Maine, dated August 6, 1947, and pursuant to the reservation of jurisdiction contained in said Order of the Commission dated June 27, 1947, having by its Supplemental Order dated June 19, 1950, and Supplemental Findings and Opinion dated July 28, 1950 (Holding Company Act Release No. 9982), entered its determinations as to the amounts to be paid to holders of the Certificates of Contingent Interest with respect to the Prior Lien Preferred Stock of NEPSCO;

Petitions for rehearing with respect to said Supplemental Order dated June 19, 1950, and said Supplemental Findings and Opinion dated July 28, 1950, having been filed by David J. Greene, et al., Committee for Common Stockholders of NEPSCO and Shareholders of Northern New England Company, and by State Street Investment Corporation, R. V. Engstrom, et al., holders of said Certificates of Contingent Interest, the latter petition being joined in by Russell B. Stearns; and

The Commission having duly considered said petitions and the grounds set forth therein and it appearing that said petitions raise no matters of substance not previously considered by the Commission:

It is ordered, That said petitions be, and they hereby are, denied.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,
Secretary.

[P. R. Doc. 50-7078; Filed, Aug. 14, 1950;
8:46 a. m.]

[File No. 59-15]

NORTHERN NEW ENGLAND CO. AND NEW
ENGLAND PUBLIC SERVICE CO.

SUPPLEMENTAL ORDER APPROVING PLAN, AS AMENDED

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 9th day of August A. D. 1950.

New England Public Service Company ("NepSCO"), a registered holding company and a subsidiary company of Northern New England Company, also a registered holding company, having heretofore filed an Amended Plan ("Plan") under section 11 (e) of the Public Utility

Holding Company Act of 1935, approved by the Commission by its Findings and Opinion and Order dated June 27, 1947, and approved and enforced by Order of the United States District Court for the District of Maine dated August 6, 1947; said Plan having provided, among other things, for the retirement of NepSCO's then outstanding Prior Lien Preferred Stock, \$7 Series, and \$6 Series, by the payment to the holders thereof on account of their rights and claims of \$100 per share and an amount equal to accrued dividends, and the issuance to such holders of Certificates of Contingent Interest evidencing their right to receive such additional amount, if any (not exceeding \$20 for the \$7 Series and \$10 for the \$6 Series), and such compensation for delay in payment, as shall be finally determined; and NepSCO having deposited in escrow the sum of \$4,000,000 to secure payment of such amounts, if any, as may be finally determined to be due and payable in accordance with the terms of said Certificates of Contingent Interest;

NepSCO having proposed in the Plan that the amount payable to holders of said Certificates of Contingent Interest shall be \$20 per share of Prior Lien Preferred Stock of the \$7 Series and \$10 per share of the Prior Lien Preferred Stock of the \$6 Series, plus, in the case of each series, such compensation for delay in the payment of such amounts as shall be determined by final order in the proceedings;

The Commission, by its Supplemental Order dated June 19, 1950, and Supplemental Findings and Opinion dated July 28, 1950 (Holding Company Act Release No. 9982) entered pursuant to the reservation of jurisdiction contained in the Commission's order of June 27, 1947, having directed that holders of said Certificates of Contingent Interest be paid \$12.25 per share of Prior Lien Preferred Stock of the \$7 Series and \$2.25 per share of the Prior Lien Preferred Stock of the \$6 Series plus, in the case of each series, compensation for the delay in payment of said amounts at the rate of 5.5 percent per annum from October 10, 1947, to the date of payment.

Petitions for rehearing with respect to said Supplemental Order dated June 19, 1950, and said Supplemental Findings and Opinion dated July 28, 1950 having been filed and the Commission by order dated August 9, 1950 having denied said petitions;

NepSCO having thereafter on August 9, 1950, filed with the Commission an amendment to the Plan to conform the Plan to said Supplemental Order dated June 19, 1950, and said Supplemental Findings and Opinion dated July 28, 1950, by substituting for its previous proposal, summarized above, with respect to the amounts to be paid to holders of said Certificates of Contingent Interest, the amounts specified in said Supplemental Order dated June 19, 1950;

NepSCO having requested the Commission to approve the Plan as thus amended and apply to the District Court of the United States for the District of Maine, pursuant to the applicable provisions of the act for an appropriate order enforcing and carrying out the Plan, as amended;

The Commission finding on the basis of such Supplemental Order dated June 19, 1950 and said Supplemental Findings and Opinion dated July 28, 1950 that the Plan, as amended, is fair and equitable to the persons affected thereby and necessary and appropriate to effectuate the provisions of section 11 (b) of the act;

It is ordered, Pursuant to section 11 (e) of the act that the Plan, as amended, be and it hereby is approved.

It is further ordered, That jurisdiction be and it hereby is reserved to determine the reasonableness and appropriate allocation of all fees and expenses and other remuneration incurred or to be incurred in connection with the Plan, as amended, and the transactions incident thereto.

It is further ordered, That jurisdiction be and it hereby is reserved to entertain such further proceedings, to make such supplemental findings and orders, and to take such further action as the Commission may deem appropriate in connection with the Plan, as amended, the transactions incident thereto and the consummation thereof, and to take such further action as the Commission may deem necessary or appropriate to effectuate the provisions of section 11 (b) of the act.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.

[F. R. Doc. 50-7079; Filed, Aug. 14, 1950;
8:46 a. m.]

[File No. 70-2325]

CONSOLIDATED NATURAL GAS CO. ET AL.
NOTICE REGARDING FILING

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 8th day of August A. D. 1950.

In the matter of Consolidated Natural Gas Company, the Peoples Natural Gas Company, New York State Natural Gas Corporation, Hope Natural Gas Company. File No. 70-2325.

Notice is hereby given that an amendment to the joint application-declaration herein has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by Consolidated Natural Gas Company ("Consolidated"), a registered holding company, and its subsidiaries, The Peoples Natural Gas Company ("Peoples"), New York State Natural Gas Corporation ("New York State"), and Hope Natural Gas Company ("Hope"). Applicants-declarants have designated sections 6 (b), 7, 9 (a), 10 and 12 (f) of the act as applicable to the proposed transaction.

Notice is further given that any interested person may, not later than August 31, 1950, at 5:30 p. m., e. d. s. t., request the Commission in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law raised by said joint application-declaration proposed to be controverted, or may request that he be notified if the

Commission should order a hearing thereon. At any time after August 31, 1950, such application-declaration, as filed or as amended, may be granted and permitted to become effective as provided in Rule U-23 of the rules and regulations promulgated pursuant to said act. Any such request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C.

All interested persons are referred to said amendment which is on file in the office of this Commission for a statement of the transaction therein proposed, which is summarized below:

The amendment requests the entry of a supplemental order modifying the Commission's order dated March 10, 1950, herein, permitting Consolidated, pursuant to the terms of a loan agreement entered into with four commercial banks, to issue and sell, from time to time, during 1950, an aggregate of \$14,000,000 principal amount of its 2 percent promissory notes due March 15, 1951, subject to renewal each year for four additional years at the option of Consolidated, and subject to Consolidated obtaining an order of the Commission authorizing each such renewal. The requested supplemental order would permit the issuance and sale of an additional \$6,000,000 of such notes resulting in an aggregate of \$20,000,000, subject to the same terms and conditions as heretofore permitted.

Our order of March 10, 1950, also permitted the issuance and sale by Peoples and New York State, to Consolidated, during the year 1950, of \$6,000,000 and \$8,000,000 principal amounts, respectively, of their 2 percent promissory notes maturing March 1, 1951, subject to renewals on the same terms as the notes to be sold by Consolidated. The requested supplemental order would permit the issuance and sale (i) of an additional \$2,000,000 principal amount of such notes by Peoples resulting in an aggregate of \$8,000,000; and (ii) of an additional \$2,500,000 principal amount of such notes by New York State, resulting in an aggregate of \$10,500,000; and (iii) of \$2,000,000 principal of like notes by Hope. The proceeds from the sale of such notes will be used to finance, in part, the construction and gas storage programs of the subsidiaries.

It is stated that the necessity for the present proposal arises in most part from increases over original estimates of the cost of the construction and gas storage programs of the several subsidiaries herein. It is also stated that the issuance and sale of notes by Consolidated and its subsidiaries are part of a general financial plan adopted by Consolidated and its subsidiaries for the purpose of securing needed capital funds on an interim basis for a period not to exceed five years. It is indicated that during the five year period the notes herein proposed together with such further notes as shall be issued and sold by Consolidated, will be refinanced by the issuance and sale of debentures or capital stock, or both. Any renewal of notes or issuance of further notes or other securities will be subject to further order of this Commission.

The proposed issuance and sale of notes by Peoples and Hope have been submitted to the Pennsylvania Public Utility Commission and the West Virginia Public Service Commission, respectively, for their approval. The proposed issuance and sale of notes by New York State is not subject to the jurisdiction of any state regulatory commission.

By the Commission.

[SEAL] ORVAL L. DuBOIS,
Secretary.
[F. R. Doc. 50-7080; Filed, Aug. 14, 1950;
8:46 a. m.]

[File No. 70-2408]

REPUBLIC SERVICE CORP. ET AL.

ORDER GRANTING APPLICATION AND PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 8th day of August A. D. 1950.

In the matter of Republic Service Corporation, Greencastle Light, Heat, Fuel and Power Company, Mercersburg, Lehighmasters and Markes Electric Company, Fulton Electric Light, Heat & Power Company. File No. 70-2408.

Republic Service Corporation ("Republic"), a registered holding company, and three of its wholly owned public utility subsidiary companies, Greencastle Light, Heat, Fuel and Power Company ("Greencastle"), Mercersburg, Lehighmasters and Markes Electric Company ("Mercersburg"), and Fulton Electric Light, Heat & Power Company ("Fulton"), having filed a joint application-declaration and amendments thereto with the Commission pursuant to the provisions of sections 6, 9, 10, and 12 of the Public Utility Holding Company Act of 1935 and Rules U-42, U-43, and U-45 promulgated thereunder regarding the following transactions:

Republic proposes to make capital contributions to Mercersburg and Fulton, of amounts due Republic on open account, in the sum of \$236,300 and \$138,626, respectively, subject to certain adjustments. Republic further proposes to sell and Greencastle proposes to acquire all the capital stocks of Mercersburg and Fulton, presently owned by Republic, for the cash amounts of \$593,027.64 and \$258,192.89, respectively, subject to certain adjustments.

Upon acquisition of such capital stocks by Greencastle, a merger will be effected whereby Greencastle will acquire the assets and assume the liabilities of Mercersburg and Fulton. The capital stocks of Mercersburg and Fulton will thereupon be canceled and the two companies will be dissolved.

In connection with the foregoing transactions Greencastle and Republic propose to take the following additional steps:

1. Greencastle will change its name to Cumberland Valley Electric Company (Greencastle will hereinafter be referred to as "Cumberland").

2. Cumberland will issue and sell \$600,000 principal amount of 3¼ percent First Mortgage Bonds, due 1970,

and \$100,000 principal amount of 3½ percent Serial Notes—due \$10,000 each year 1951 to 1960, inclusive—to John Hancock Mutual Life Insurance Company, at the principal amount thereof.

3. Cumberland will increase its authorized capital stock from 10,000 shares of common stock, par value \$10 per share, to 50,000 shares of common stock, par value \$10 per share; and will issue and sell, and Republic will purchase, 27,500 additional shares of such common stock for \$275,000.

4. Of the aggregate of \$975,000 to be received by it from the sales of securities referred to above, Cumberland will (a) deposit \$100,000 with the Trustee under its new bonds, to be subsequently withdrawn against new construction, (b) pay Republic the adjusted price of \$850,000 (see par. 5 below) for the stocks of Mercersburg and Fulton, and (c) use the balance of \$25,000 for expenses of the proposed transactions and for working capital.

5. After giving effect to the amounts payable to Republic by Cumberland in respect of the latter's purchase of the stocks of Mercersburg and Fulton, Republic will contribute to Cumberland all sums owed it by Cumberland in excess of \$850,000.

6. Of the \$850,000 to be received by it from Cumberland, Republic will use \$575,000 to pay and discharge its presently outstanding \$425,000 principal amount of secured notes, and \$150,000 principal amount unsecured note due August 31, 1950; and will use the balance of \$275,000 to purchase 27,500 shares of Cumberland's common stock, as described in paragraph 3 above.

Said application-declaration having been filed on May 26, 1950, and amendments thereto having been filed, and notice of said filing having been given in the form and manner prescribed by Rule U-23 promulgated pursuant to the act, and the Commission not having received a request for a hearing with respect to said application-declaration, as amended, within the period specified in said notice, or otherwise, and not having ordered a hearing thereon; and

The Pennsylvania Public Utility Commission, the only State commission having jurisdiction over the proposed transactions, having duly authorized the proposed transactions insofar as they affect Cumberland, Mercersburg and Fulton; and

Applicants-declarants having requested that the Commission's order herein with respect to said joint application-declaration, as amended, become effective upon issuance; and

The Commission finding with respect to the joint application-declaration, as amended, that the applicable provisions of the Act and the Rules promulgated thereunder are satisfied and that no adverse findings are necessary, and deeming it appropriate in the public interest and in the interest of investors and consumers that said joint application-declaration, as amended, be granted and permitted to become effective, subject to the terms and conditions specified below; and the Commission further deeming it appropriate to grant the request of the joint applicants-declarants that

the order herein become effective forthwith;

It is ordered, Pursuant to Rule U-23 and the applicable provisions of the Public Utility Holding Company Act of 1935 that said joint application-declaration, as amended, be, and the same hereby is, granted and permitted to become effective forthwith, subject to the terms and conditions prescribed in Rule U-24.

By the Commission.

[SEAL]

ORVAL L. DuBois,
Secretary.

[P. R. Doc. 50-7081; Filed, Aug. 14, 1950;
8:46 a. m.]

DEPARTMENT OF JUSTICE

Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 14912]

RICHARD AND GRETA LEVIEN

In re: Real property owned by Richard Levién, also known as Richard Levine and as Richard Lewien, and Greta Levién, his wife, also known as Grete Heuer Levién.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Richard Levién, also known as Richard Levine and as Richard Lewien, and his wife, Greta Levién, also known as Grete Heuer Levién, each of whose last known address is Nussberg Str. 49, Braunschweig, Germany, are residents of Germany, and nationals of a designated enemy country (Germany);

2. That the property described as follows: Real property situated in New Berlin Township, County of Waukesha, State of Wisconsin, particularly described as all of Lot Number Thirty-one (31) and the contiguous part of Lot Thirty-two (32) having a frontage of twenty-four (24) feet and a depth of three hundred thirty-eight (338) feet in the Linnie Lac Subdivision, being that certain real property conveyed by Ma-linda Blott, administratrix and survivor of the estate and lands of John C. Blott, deceased, to Richard Levién and Greta Levién, his wife, by warranty deed, dated March 14, 1939 and recorded in the Office of the Register of Deeds of Waukesha County, Wisconsin, on April 6, 1939, in volume 282 of Deeds on page 115, said lots being described in the plat of the Linnie Lac Subdivision on record in the Office of said Register of Deeds, together with all hereditaments, fixtures, improvements and appurtenances thereto, and any and all claims for rents, refunds, benefits or other payments, arising from the ownership of such property,

is property within the United States, owned or controlled by, payable or deliverable to, held on behalf of or on

account of, or owing to, or which is evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described in subparagraph 2 hereof, subject to recorded liens, encumbrances and other rights of record held by or for persons who are not nationals of designated enemy countries, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on August 4, 1950.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[P. R. Doc. 50-7103; Filed, Aug. 14, 1950;
8:50 a. m.]

[Vesting Order 14913]

ELIZABETH AND MARTHA SCHWARZENBERG

In re: Real property owned by Elizabeth Schwarzenberg and Martha Schwarzenberg.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Elizabeth Schwarzenberg and Martha Schwarzenberg, whose last known address is Ostseebad, Prerow-Darsz, Germany, are residents of Germany and nationals of a designated enemy country (Germany);

2. That the property described as follows: Real property situated in the Town of Wauwatosa, County of Milwaukee, State of Wisconsin, particularly described as lots numbered Thirty (30) and Thirty-one (31) in Block numbered Thirteen (13), in Hampton Park, being a subdivision of a part of the Northwest Quarter (NW¼) of Section numbered Three (3), in Township numbered Seven (7) North, Range numbered Twenty-one (21) East, together with all hereditaments, fixtures, improvements and appurtenances thereto, and any and all claims for rents, refunds, benefits or other payments arising from the ownership of such property,

is property within the United States owned or controlled by, payable or deliv-

erable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany);

and it is hereby determined:

3. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described in subparagraph 2 hereof, subject to recorded liens, encumbrances and other rights of record held by or for persons who are not nationals of designated enemy countries, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on August 4, 1950.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 50-7104; Filed, Aug. 14, 1950;
8:50 a. m.]

NICHOLAS P. PERENTESIS ET AL.

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of the publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Nicholas P. Perentesis, \$28.49 in the Treasury of the United States.

Stavros P. Perentesis, \$28.49 in the Treasury of the United States.

Catherine N. Dousmanis, \$28.49 in the Treasury of the United States.

Voula G. Perentesis, \$14.25 in the Treasury of the United States.

Panagiotis G. Perentesis, \$14.25 in the Treasury of the United States.

Stavroula C. Perentesis, \$7.13 in the Treasury of the United States.

George C. Perentesis, \$3.56 in the Treasury of the United States.

Panagiotis C. Perentesis, \$3.56 in the Treasury of the United States.

Anastasios C. Perentesis, \$3.56 in the Treasury of the United States.

Demitra C. Perentesis, \$3.56 in the Treasury of the United States.

Nicholas C. Perentesis, \$3.56 in the Treasury of the United States.

Fotios C. Perentesis, \$3.56 in the Treasury of the United States.
All of Paleopanaya, Laconia, Greece; Claim No. 28592.

Executed at Washington, D. C., on August 9, 1950.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 50-7106; Filed, Aug. 14, 1950;
8:50 a. m.]

ROSARIA RUMORE MUSTACCHIO

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of the publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Rosaria Rumore Mustacchio, a/k/a Rosarie Rumore Mustacchio, Palermo, Italy; Claim No. 41785; \$5,481.38 in the Treasury of the United States.

Executed at Washington, D. C., on August 9, 1950.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 50-7109; Filed, Aug. 14, 1950;
8:50 a. m.]

IDA NELLI ET AL.

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of the publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Ida Nelli and Iginia Marini, Chicago, Ill.; Claims Nos. 5377 and 5378; \$174.73 in the Treasury of the United States to each Ida Nelli and Iginia Marini.

Fulvio Marini and Flora Marini, Pesca, Italy; Claim No. 38733; \$349.45 in the Treasury of the United States to each Fulvio Marini and Flora Marini.

Executed at Washington, D. C., on August 10, 1950.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 50-7107; Filed, Aug. 14, 1950;
8:50 a. m.]

EDWARD V. COONAN ET AL.

NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of the publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Edward V. Conan as Executor of the will of Helen Brauns Coonan, deceased, Baltimore, Maryland, Claim No. 12096; \$1,025.90 in the Treasury of the United States.

Adolph William Engler as Executor of the will of Edna Grace Engler, deceased, Pitman, N. J.; Claim No. 12097; \$1,025.90 in the Treasury of the United States.

William A. Grimes as Administrator of the estate of George C. Keidel, deceased, Baltimore, Md.; Claim No. 12098; \$1,025.90 in the Treasury of the United States.

Executed at Washington, D. C., on August 10, 1950.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[F. R. Doc. 50-7108; Filed, Aug. 14, 1950;
8:50 a. m.]

[Vesting Order 14914]

JOHN U. YOKOTAKE

In re: Interest in real property, property insurance policy and a claim owned by John U. Yokotake.

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That John U. Yokotake, whose last known address is 249 Danbara Nakamachi, Hiroshima, Japan, is a resident of Japan and a national of a designated enemy country (Japan);

2. That the property described as follows:

a. An undivided one-half ($\frac{1}{2}$) interest in real property situated in the County of Minidoka, State of Idaho, particularly described as the West-half of the Southwest quarter ($W\frac{1}{2}SW\frac{1}{4}$) of Section Thirty-five (35), Township Nine (9) south of Range Twenty-three (23) east of the Boise Meridian, together with all hereditaments, fixtures, improvements and appurtenances thereto, and any and all claims for rents, refunds, benefits or other payments arising from the ownership of such property,

b. All right, title, interest and claim of the person named in subparagraph 1 hereof, in and to Fire Insurance Policy, No. 13406, in the amount of \$1,500.00, expiring May 5, 1950, issued by the American Insurance Company, 15 Washington Street, Newark, New Jersey to E. M. Tanaka, and insuring the improvements on the real property described in subparagraph 2-a hereof, together with any and

all extensions or renewals thereof, and

c. That certain debt or other obligation owing to the person named in subparagraph 1 hereof, by E. M. Tanaka, also known as Eddie M. Tanaka, Box 2, Shoshone, Idaho, arising out of his share of the rents collected from the real property described in subparagraph 2-a hereof, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Japan);

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not

within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Japan).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described in subparagraph 2-a hereof, subject to recorded liens, encumbrances and other rights of record held by or for persons who are not nationals of designated enemy countries, and

There is hereby vested in the Attorney General of the United States the prop-

erty described in subparagraphs 2-b and 2-c hereof,

All such property so vested to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on August 4, 1950.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,
Assistant Attorney General,
Director, Office of Alien Property.

[P. R. Doc. 50-7105; Filed, Aug. 14, 1950;
8:50 a. m.]